



**REPORT TO  
CONVOCAATION**

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**SEPTEMBER 2016**



Lawyers' Professional Indemnity Company  
Assurance LAWPRO®

TO: The Treasurer and Benchers of The Law Society of Upper Canada

**RE: 2017 Insurance Program: Transmittal of Report to Convocation**

Planning for 2017, LAWPRO continues to make careful adjustments to address the evolving legal environment in Ontario. The company has established over 20 years of historical claims data that can be used when reviewing the Program of insurance each year. Our commitment is to refine the Program policy and terms to take into account developments in the profession we serve. These developments drive the changes in our offer to Convocation this year.

***Premium reduction in 2017***

Our offer of insurance for 2017 includes a base premium of \$2,950 per lawyer; a decrease of \$400 from the base premium charged from 2011 through 2016. This reduction has been determined after careful analysis of claims history, capital accumulation, and the need to continue to operate the company in a commercially reasonable manner.

Part of LAWPRO's mandate is to offer a base premium for the primary Program that reflects the greatest possible savings for the bar that the size of the premium pool and solvency requirements permit. The base premium of \$3,350 from 2011 to 2016 reflected rapid increases in the number and cost of claims, combined with severe volatility in the world investment markets in the late 2000s. If claim results continued as our models indicated, substantial reserves needed to be maintained to keep the Program properly funded.

Our recent data shows that, although claims are still high, they are not accelerating at the rate projected in the past. Claims expenses have in fact tended to grow at the same rate as the increase of the number of insured lawyers in the province.

In terms of capitalization, our result under the new Minimum Capital Test calculation (the main solvency test for Canadian insurance companies) is projected to satisfy the preferred range set by our Board. This indicates a strong financial position.

Taking into account these two factors (moderating claims growth and strong capitalization), it is appropriate to responsibly, and consciously, lower the base premium, to the benefit of all our Program insureds.

This change reflects our commitment to offer appropriately priced insurance, maintaining the stable and predictable service and solvency on which the Law Society, Ontario insured lawyers and the public depend.

***Strategies to promote access to justice***

To promote access to justice and to address the lower demonstrated risk of certain employed lawyers, a new premium adjustment is proposed for lawyers who are employed by specific

Designated Agencies, provided the lawyers only perform professional services for third parties pursuant to their employment and on a no-fee basis. Such lawyers typically assist those who would otherwise have challenges in accessing legal advice, and thus advance access to justice.

The amount of this discount is 75 per cent of the base rate. As well, the 2017 Program Policy will be amended to exempt these lawyers from civil litigation transaction levy payments as long as those services are provided in the course of the lawyer's employment with a Designated Agency.

### ***Adjustments in coverages for seconded lawyers***

There are occasions when lawyers in private practice go on temporary secondment to corporate clients of their firms. Seconded lawyers face different risks than either employed corporate counsel or lawyers in traditional private practice and the Program requires amendment to reflect this.

The seconded lawyers take instructions directly from their firm's client and may have only restricted access to the firm's resources during the period of secondment. The firm clients should be treated similarly to non-licensee employers where the client during the secondment meets the definition of "corporate employer" in the Program policy. This ensures, from an underwriting perspective, that the substance of the risk takes precedence over the form of the relationship with the lawyer.

For 2017, our offer of insurance is to amend the policy to exclude claims brought by corporations against seconded lawyers and to extend the \$250,000 defence-only coverage to the benefit of the seconded lawyer if the "employer exclusion" of the Policy applies.

### ***Protecting the profession and the public***

For many years LAWPRO has had the power to report insured conduct to the Law Society in certain circumstances set out in the Program policy. The reporting terms have not changed in approximately 20 years. In light of recent significant changes to Rule 7.1-3 of the *Rules of Professional Conduct*, our offer includes allowing LAWPRO to notify the Law Society in any circumstances in which a Law Society licensee would be required to report another licensee.

As well, to reduce the potential for practice disruptions and minimize administration, it is proposed that LAWPRO be empowered to reinstate most Program options elected by insureds in the previous year when a completed renewal application is not received by the required due date.

### ***Observed changes in proportion of claims by area of practice***

LAWPRO regularly conducts detailed analyses of the risks associated with the Program. As we have mentioned before, the practice of real estate and civil litigation represent a large portion of risk when compared to other areas of practice.

These two areas of practice represent 70 per cent of the claims reported and 64 per cent of the claims costs under the Program in 2015.

However, the exposure relating to the practice of civil litigation continues to grow substantially more than in the past, with civil litigation accounting for 44 per cent of the claims reported and

43 per cent of the claims costs under the Program. Missed limitation period claims (including administrative dismissals) accounted for almost 31 per cent of litigation claims, whereas general conduct or handling of the matter accounted for about 69 per cent of these claims. We will continue our efforts to educate the bar on risks around changes to Rule 48 and the January 1, 2017 deadline.

Transaction and claims history surcharge levies continue to be an important way to manage the costs of areas of practice with higher claims risk. By including the transaction and claims history surcharge levies in most recent years, a shortfall for real estate and civil litigation claims costs have typically been overcome. Therefore, it is proposed to maintain the levies at the same level for 2017.

### ***Conclusions***

LAWPRO Board members and management will use our history to inform our future. Change is constant and data is every insurance company's primary tool to manage change. We are able to offer an affordable and effective insurance program by staying sensitive to the needs of a changing bar which we believe is evident in this offer.

***Original signed by Susan McGrath***

Susan T. McGrath  
Chair

***Original signed by Kathleen Waters***

Kathleen A. Waters  
President & CEO

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# LAWYERS' PROFESSIONAL INDEMNITY COMPANY ("LAWPRO")

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## REPORT TO CONVOCATION – SEPTEMBER 2016

### BACKGROUND

1. The Law Society of Upper Canada ("Law Society") governs the legal profession in the public interest. One of the ways it discharges its responsibilities is through the mandatory requirement it places on practising lawyers to obtain professional liability insurance coverage for legal malpractice claims. This coverage is provided by LAWPRO, a provincially licensed insurer that is owned by the Law Society.
2. The coverage that the Law Society's mandatory insurance program ("Program") provides is considered to be both in the best interests of the public and in the best interests of Ontario lawyers – in that the public has reasonable assurance that an insurance policy backstops errors committed by lawyers in practice, and lawyers have assurance that they have a degree of financial protection for their professional liability that is well-suited to most lawyers' practice needs.
3. In recent years, we have seen an upward trend in the number of open claims files, with approximately 3,608 open files as at December 31, 2015, estimated to have a gross value of \$460.1 million. Overall, the Program manages about 84 per cent of the Law Society's over \$830 million in combined assets.
4. Each September since 1995, LAWPRO's Board of Directors has reported to Convocation on changes to the Law Society's Program for the following calendar year. The timing of this report is necessitated by the logistics of renewing over 26,000 policies effective January 1, and the need to negotiate and place any related or corollary reinsurance treaties.
5. This report is also an opportunity for LAWPRO's Board to review with Convocation issues of importance to its insurance operations and receive policy

direction where necessary. Financial information on LAWPRO and the Program is provided to Convocation throughout the year.

6. Convocation established LAWPRO's mandate in 1994 with the adoption of the Insurance Committee Task Force Report ("Task Force Report"). The mandate and principles of operation derived from the Task Force Report are as follows:

- that LAWPRO be operated separate and apart from the Law Society by an independent board of directors;
- that LAWPRO be operated in commercially reasonable manner;
- that LAWPRO move to a system where the cost of insurance reflects the risk of claims; and
- that claims be resolved fairly and expeditiously; however, this was not to be a system of "no-fault" compensation and there would be certain circumstances where coverage was denied or coverage was limited.

For 2017, we have conducted our annual review of the Program to re-validate the approach and rating structure in light of these Task Force recommendations.

7. The LAWPRO Board of Directors believes that these recommendations have been achieved in LAWPRO's operations, and that the proposed Program for 2017 continues to fulfill these principles. This report deals solely with the Program for the Law Society. The LAWPRO optional insurance segment, composed of TitlePLUS® title insurance and the Excess professional liability insurance program, is planned to operate on an expected break-even or better basis.

## **2017 PROGRAM SUMMARY**

8. The following summarizes the 2017 Program, as provided for in this report.

### ***Premium Pricing for 2017:***

(i) The base premium is \$2,950 per lawyer for 2017, a decrease of \$400 from the base premium charged in 2011 through 2016 (paragraph 104(a)).

(ii) Revenues from real estate and civil litigation transaction levies collected by the Errors & Omissions Fund during the year are budgeted at \$25.1 million for the purposes of establishing the base premium for 2017 and other budgetary purposes (paragraph 104(b)).

(iii) The premium for the Real Estate Practice Coverage Option will continue to be \$100 (paragraph 104(c)).

(iv) 100 per cent of the premiums and losses for the Program will again be retained by LAWPRO in 2017, subject to limited capital backstop protection provided by the Errors & Omissions Fund, and reinsurance protecting the Program from multiple losses arising out of a common event or nexus (paragraph 77).

### ***Seconded Lawyers:***

(v) Many lawyers in private practice go on temporary secondment in order to carry out the tasks of in-house counsel for corporate clients of their firms. Seconded lawyers face different risks than either employed corporate counsel or lawyers in traditional private practice and the Program requires amendment to reflect this. For 2017, the Program Policy will be amended to exclude claims brought by corporations against seconded lawyers for professional services provided while under secondment with them, where notwithstanding the form of the relationship, the claimant meets the definition of a “corporate employer” under the Program Policy. The Policy will also be amended to extend the \$250,000

per claim and in the aggregate defence-only coverage under the endorsement for “Claims Brought by CORPORATE EMPLOYERS” to include coverage for seconded lawyers in those circumstances (paragraph 20).

***Lawyers Employed by Designated Government Agencies:***

(vi) To promote access to justice and to address the lower demonstrated risk, for 2017 the Program will be amended so that a new premium discount is available to lawyers employed by certain designated agencies (“Designated Agencies”), provided the lawyers only provide professional services to third parties pursuant to their employment and on a no-fee basis, and that the amount of this discount should be set at 75 per cent of the base rate. As well, the 2017 Program Policy will be amended to exempt such lawyers from payment of the civil litigation transaction levy provided the services that would normally give rise to the levy are provided in the course of the lawyer’s employment with a Designated Agency (paragraph 25).

***Coverage Options in the Absence of an Application:***

(vii) To reduce the potential for practice disruptions and minimize administration, for 2017 the Program renewal process will be amended so that LAWPRO is able to reinstate most Program options elected by insureds that would otherwise have been removed when no fully completed renewal application for Policy coverage was received when due. The options that may be reinstated in the absence of such an application and carried forward from the previous year’s Policy coverage will be the:

- a) Restricted Area of Practice Coverage option (i.e., including for sole practitioners and lawyers practising in association);
- b) Designated Agency employee option;
- c) Part-time Practice option;
- d) Real Estate Practice Coverage option;

- e) Deductible option;
- f) Payment option (paragraph 28).

***Reporting to the Law Society:***

(viii) Following recent amendments to the Rules of Professional Conduct (the “Rules”), Condition Q of the Policy (“Reporting to the Law Society”) will be amended for 2017 to ensure that LAWPRO is empowered to report activities to the Law Society in any circumstances in which a licensee would be required to report another licensee under the Rules (paragraph 33).

***LAWPRO Risk Management Credit:***

(ix) The LAWPRO Risk Management Credit will be continued for the 2017 Program, with a \$50 premium credit per approved CPD program, subject to a \$100 per lawyer maximum amount, to be applied for pre-approved legal and other educational programs taken and successfully completed by lawyers between September 16, 2015, and September 15, 2016, for which the lawyer has successfully completed the online Risk Management Credit Declaration Form (paragraph 52).

***Other Program Features (or Adjustments):***

(x) Subject to the changes identified earlier in the report, the remaining exemption criteria, policy coverage, coverage options, and premium discounts and surcharges in place in 2016 will remain unchanged for the 2017 Program (paragraph 109).

***The Errors & Omissions Insurance Fund:***

(xi) The investment income of the Errors & Omissions Fund which is surplus to the obligations of the Fund will be made available to the Law Society during 2017 (paragraph 12).

***Conclusion:***

The LAWPRO Board considers the Program changes to be appropriate and consistent with its mandate as set out in the 1994 Insurance Committee Task Force Report. The LAWPRO Board offers this Program of insurance for 2017 and asks for Convocation's acceptance of this Report at the September Convocation, so that the 2017 Program can be implemented by January 1, 2017 (paragraph 110).

## **PART 1 – THE ERRORS & OMISSIONS INSURANCE FUND**

9. LAWPRO provides services to the Law Society with respect to the Errors & Omissions Fund of the Law Society, which is currently in run-off mode. (The Errors & Omissions Fund was responsible for the insurance Program prior to 1990, and for a group deductible of up to \$250,000 per claim prior to 1995.)

10. In recent years the Errors & Omissions Fund resources have been utilized to settle outstanding claims (for Program policies in place between July 1, 1989 and December 31, 1994), maintain its investment in LAWPRO share capital, and make available \$15 million of funds to backstop the potential of significant deterioration in the loss experience under recent years' Program policies. Where the investment income has been considered surplus to the Errors & Omissions Fund's commitments, it has typically been aggregated for use to the benefit of the Law Society for general purposes.

11. As of June 30, 2016, the Errors & Omissions Fund had outstanding claims liabilities of less than \$0.1 million. The number of open files for 1994 and prior years stood at one. Since there are sufficient assets in the Errors & Omissions Fund to fully meet the outstanding liabilities, the LAWPRO Board is again satisfied that the investment income generated by the Errors & Omissions Fund is surplus to the needs of the Errors & Omissions Fund and can be used by the Law Society for its general purposes.

**12. Accordingly, the investment income of the Errors & Omissions Fund which is surplus to the obligations of the Fund will be made available to the Law Society during 2017.**

## **PART 2 – CHANGES TO THE PROGRAM FOR 2017**

13. In developing the details of the 2017 Program, LAWPRO has considered the changing environment in which lawyers practise and any comments received from the profession during the previous year. The general structure of the current Program appears in most ways to meet the needs and practice realities of the profession for 2017.

14. However, for the 2017 Program, four modifications in the structure of the Program or in the form and substance of the policy are contemplated.

### **Seconded Lawyers**

15. When corporate clients look to law firms to fill their need for in-house counsel on a temporary or contract basis, these “secondment” relationships can take many forms. The firm may be a traditional law firm that will send out its associates and partners for limited periods to embed themselves with clients in order to meet their client’s needs as well as enhance familiarity with the client, its operations and structure. Alternatively, the firm providing the service may be a dedicated supplier of contract lawyers who provide solutions to corporations needing assistance with specific projects or when they have a vacant position that needs to be temporarily filled in their in-house department.

16. Typically, the firm which has placed the lawyer in the seconded position will be paid by the corporate client, and will in turn continue to pay the seconded lawyer his or her salary during the period of secondment. But the seconded lawyer would be expected to take instructions directly from the firm’s client and may have only restricted access to the firm’s resources during the period of secondment.

17. Currently, lawyers in private practice, acting on behalf of a law firm’s clients, are considered “Practising Lawyers” and are required to maintain the Program insurance. Lawyers who are employed by a corporation (other than a law corporation) or by government, and who provide professional services only for and on behalf of their

employer, are eligible to claim exemption pursuant to By-law 6, s.9(1)(4) of the *Law Society Act*.

“9. (1) *The following are eligible to apply for exemption from payment of insurance premiums:*

...

4. *Any licensee who, during the course of the year for which a levy is payable,*
  - i. *will be employed by a single employer,*
  - ii. *will engage in the practice of law only for and on behalf of the employer as,*
    - A. *counsel or solicitor to the Government of Canada or the Government of Ontario,*
    - B. *a Crown Attorney,*
    - C. *counsel to a corporation other than a law corporation, or*
    - D. *a city solicitor, and*
  - iii. *will not engage in the practice of law in Ontario other than for and on behalf of the employer.”*

This exemption from maintaining the Program insurance has satisfied the needs of employed lawyers who do work only for and on behalf of the employer because of the degree to which employment law limits claims by employers against employees.

18. Seconded lawyers do not typically qualify for exemption as an employed lawyer under the terms of the By-law. At the same time, given the level of control that the client exerts over the work of the seconded lawyer, there are reasons why these clients should be treated as akin to employers for purposes of their eligibility (or not) for protection under the Program related to the work of the seconded lawyers. In other words, as the clients have effective control over the lawyers’ provision of professional services during the period of secondment, to provide indemnity coverage, where notwithstanding the form of the relationship, the claimant meets the definition of a “corporate employer” under the Program Policy, would effectively mean that the clients are obtaining errors and omissions insurance protection under the Program that LAWPRO would not extend to any typical employer.

19. The clients availing themselves of seconded lawyers should be treated similarly to non-licensee employers. This ensures from an underwriting perspective that the substance of the risk takes precedence over the form of the relationship with the lawyer.

If the client who meets the definition of “corporate employer” sues the seconded lawyer for work done during the period of secondment, Part III exclusion (b) will exclude such claims. However, the seconded lawyer will be provided with \$250,000 per claim and in the aggregate defence-only coverage for claims brought by the client for services provided during the period of secondment in accordance with Endorsement No. 11 in those circumstances.

**20. Many lawyers in private practice go on temporary secondment in order to carry out the tasks of in-house counsel for corporate clients of their firms. Seconded lawyers face different risks than either employed corporate counsel or lawyers in traditional private practice and the Program requires amendment to reflect this. For 2017, the Program Policy will be amended to exclude claims brought by corporations against seconded lawyers for professional services provided while under secondment with them, where notwithstanding the form of the relationship, the claimant meets the definition of a “corporate employer” under the Program Policy. The Policy will also be amended to extend the \$250,000 per claim and in the aggregate defence-only coverage under the endorsement for “Claims Brought by CORPORATE EMPLOYERS” to include coverage for seconded lawyers in those circumstances.**

### **Lawyers Employed by Designated Government Agencies<sup>1</sup>**

21. There are lawyers employed by government in certain agencies or groups to provide services to members of the public, typically to enhance access to justice on a no-fee basis. These lawyers do not qualify for exemption under By-law 6, s. 9(1)(4) because their practice of law is not restricted “for and on behalf of the employer.”

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<sup>1</sup> This will not affect those employed or volunteering in a clinic within the meaning of the *Legal Aid Services Act, 1998*, a student legal aid services society, or an Aboriginal legal services corporation, as those licensees generally qualify for exemption from payment of insurance premium levies under Section 9(1)(6) of By-law 6.

22. Based on what is known of the claims history for lawyers practising in sample agencies with which the Law Society and LAWPRO have been in contact, they appear to represent a substantially lower risk than most other practice types, with relatively few claims being brought against these types of agency lawyers for services provided to the public. Nevertheless, it is important that such agency lawyers be included in the Program: it guarantees that their clients (who are members of the public) are entitled to the same consistency and equality of approach to any negligence-related disputes that arise; that LAWPRO has the ability to oversee and influence as appropriate the standard of care expected of all Ontario lawyers serving the public; and that LAWPRO's data on causes of claims and areas of loss remains comprehensive, so it can develop effective risk management initiatives.

23. After careful review of the risks posed by the services provided by sample agency lawyers, and the public interest in promoting access to these types of initiatives, LAWPRO is satisfied that a new premium discount option for lawyers employed by qualifying employers should be introduced, and that the amount of this discount should be set at 75 per cent of the base rate. This discount would apply to one or more designated government agencies or programs that in exercise of LAWPRO's underwriting discretion meet the risk-based assessment and conduct work that promotes access to justice and merits support within the broader community.

24. Lawyers employed by a Designated Agency who only provide professional services to third parties on behalf of the employer will not just receive a significant discount on the base premium, but will also be exempt from payment of the civil litigation transaction levy (described in Endorsement No. 3 of the Policy) if the services normally giving rise to the levy are carried out in the course of their employment with the Designated Agency.

**25. To promote access to justice and to address the lower demonstrated risk, for 2017 the Program will be amended so that a new premium discount is available to lawyers employed by Designated Agencies, provided the lawyers only provide professional services to third parties pursuant to their employment**

**and on a no-fee basis, and that the amount of this discount should be set at 75 per cent of the base rate. As well, the 2017 Program Policy will be amended to exempt such lawyers from payment of the civil litigation transaction levy provided the services that would normally give rise to the levy are provided in the course of the lawyer's employment with a Designated Agency.**

### **Coverage Options in the Absence of an Application**

26. Prior to the annual policy renewal, or when an insured who was exempt is required to again carry practise coverage, completed application forms must be submitted by a date set by LAWPRO. In the event a lawyer (or paralegal insured) fails to file the appropriate application form, LAWPRO will still issue the Program coverage to ensure that those in practice continue to be insured as required, but in the past this coverage has generally been void of non-standard coverage options. This approach was consistent with instructions given by Convocation in 1996.

27. Stripping non-standard coverage options from a lawyer's coverage can prove a hardship for the lawyer (who will usually contact LAWPRO to unwind the change), inconvenience the lawyer's clients (if, for example, the lawyer's real estate practice coverage is removed and a real estate transaction is pending) and create unnecessary administrative work for LAWPRO staff. For LAWPRO staff, considerable time after the renewal period has ended is spent restoring coverage options, with many requests being tendered on an urgent basis (e.g., because of real estate closings already in process).

**28. Accordingly, for 2017 the Program renewal process will be amended so that LAWPRO is able to reinstate most Program options previously elected by insureds that would otherwise have been removed when no fully completed renewal application for Policy coverage was received when due. The options that may be reinstated in the absence of such an application and carried forward from the previous year's Policy coverage will be the:**

- a) **Restricted Area of Practice Coverage option (i.e., including for sole practitioners and lawyers practising in association);**
- b) **Designated Agency employee option;**
- c) **Part-time Practice option;**
- d) **Real Estate Practice Coverage option;**
- e) **Deductible option;**
- f) **Payment option.**

### **Reporting to the Law Society**

29. Lawyers and paralegals must abide by the Law Society's Rules of Professional Conduct if they want to best serve their clients, avoid disciplinary processes and maintain their licenses. Under these Rules, if licensees are aware of certain conduct that may involve a breach they are required to report such conduct to the Law Society.

30. In May 2016 the Law Society amended Rule 7.1-3 of the Lawyer's Rules of Professional Conduct (**emphasis added** to indicate where changes were made to the Rules)<sup>2</sup>:

*Duty to Report Misconduct*

*7.1-3 Unless to do so would be unlawful or would involve a breach of solicitor-client privilege, a lawyer shall report to the Law Society,*

*(a) the misappropriation or misapplication of trust monies;*

*(b) the abandonment of a law or legal services practice;*

*(c) participation in serious criminal activity related to a licensee's practice;*

***(d) conduct that raises a substantial question as to another licensee's honesty, trustworthiness, or competency as a licensee;***

***(e) conduct that raises a substantial question about the licensee's capacity to provide professional services; and***

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<sup>2</sup>The equivalent provision in the Paralegal Rules of Conduct is found in Rule 9.01(2).

(f) any situation where a licensee's clients are likely to be severely prejudiced.

[Amended - June 2007, October 2014, May 2016]

31. Since January, 1998, LAWPRO has had the power to report insureds under the terms of the Policy. In recent years, it is typical for there to be four or fewer reports per year. The condition contained within the Policy that addresses LAWPRO's ability to report insureds to the Law Society is contained in Part IV, Condition Q, which currently provides as follows:

***“Q. Reporting to The Law Society:***

*“The INSURED agrees that, if the INSURER reasonably believes the INSURED to be or to have engaged in activities which the INSURER, in its sole and absolute discretion, considers may be dishonest or criminal or in activities which have had or may have the effect of causing someone to suffer serious damage as a consequence of an apparent breach of the rules of professional conduct, the INSURER may, in its sole and absolute discretion, report such activities to the NAMED INSURED and may, in its sole and absolute discretion, deliver to the NAMED INSURED such information and documents relating thereto that the INSURER, in its sole and absolute discretion, deems appropriate.”*

32. Condition Q not only contributes to public protection, but also addresses the fact that LAWPRO's in-house licensees are not exempt from the reporting requirements under the Rules. The wording of Condition Q has remained unchanged since 1998. In essence, it was drafted to co-ordinate with an earlier version of the reporting requirement. Given the changes to Rule 7.1-3 and Rule 9.01(2) made earlier this year, it is appropriate that this condition of the Policy also be updated. The revision proposed means that the Policy condition will automatically track any future revisions of the Rules.

**33. Following recent amendments to the Rules, Condition Q of the Program Policy will be amended for 2017 to ensure that LAWPRO is empowered to report activities to the Law Society in any circumstances in which a licensee would be required to report another licensee under the Rules.**

### **PART 3 – THE PROFESSIONAL LIABILITY INSURANCE PROGRAM**

34. Rapid increases in the number and cost of claims during the mid to late 2000s, combined with severe volatility in the world investment markets in the late 2000s, placed significant pressure on the Program. While the Program is still subject to ongoing uncertainty regarding claims costs and investment income, the gentler growth rate of claims and solid experience in the investment markets over the last five or so years have been key contributors to the Program returning to firmer footing. The proposals outlined in the following pages are designed to address the present challenges in a prudent fashion and maintain LAWPRO's ability to meet the needs of the Program in the years to come.

35. To establish the recommended Program for 2017, the LAWPRO Board considered several factors, such as:

- the cumulative effect of the recent underwriting and investment results, and the economic environment, on the Program;
- the expected future loss cost;
- the revenue sources which are expected to supplement the base levies; and
- the inherent uncertainties in predicting the results of the Program each year.

36. To ensure the Program's long-term viability, LAWPRO and the Board took a prudent approach to projections of revenue, as well as claims frequency and severity, taking into account factors such as emerging claims trends, general economic conditions and inflationary pressures on the claims portfolio.

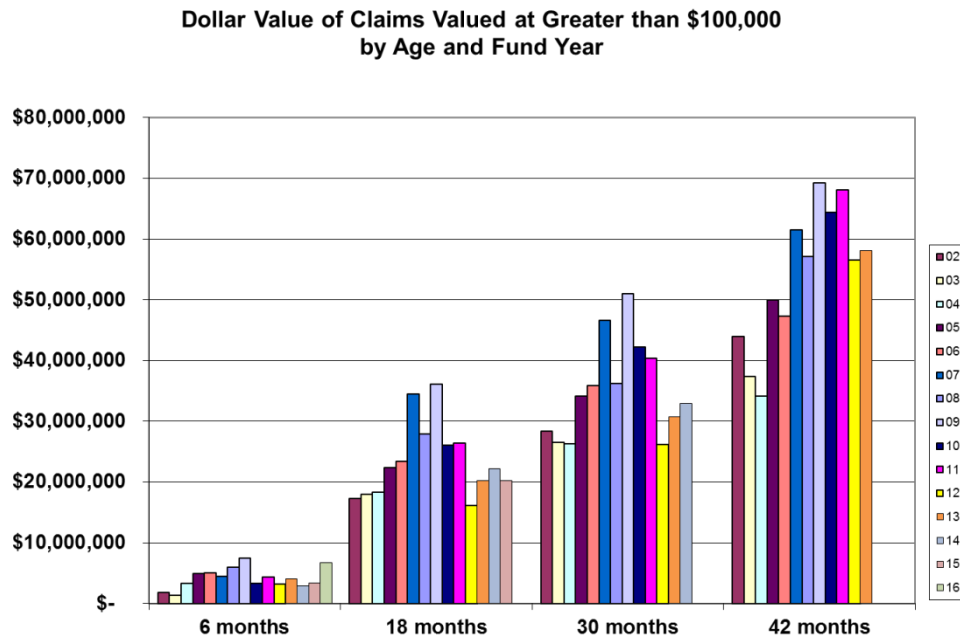
37. As part of its ongoing planning process, LAWPRO looked at a five-year time horizon. Any LAWPRO forecast is reviewed and revised periodically based on new information as it emerges. The subject forecast reflects the trends detailed in this report, and takes a conservative approach to projecting the frequency and cost of claims under the Program. This prudent approach is dictated by uncertainties associated with

predicting (a) general economic and inflationary trends, and (b) claims associated with recommended or recent Program changes, as applicable.

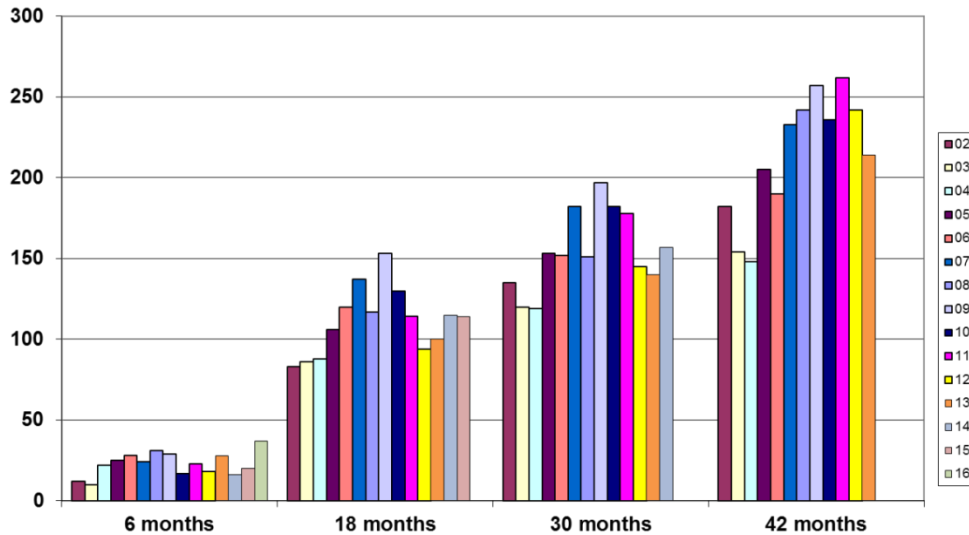
### Program Costs

38. LAWPRO's revenue requirements for the 2017 Program are based on the anticipated cost of claims for the year, as well as the cost of applicable taxes and Program administration.

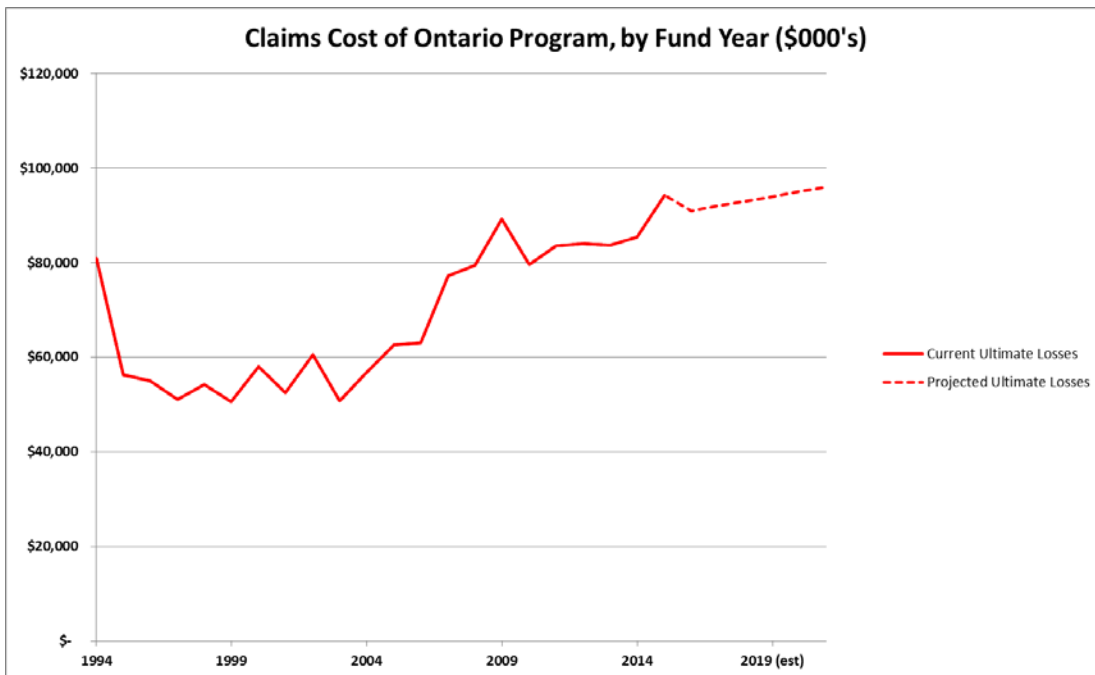
39. Loss experience has trended up noticeably in terms of frequency since 2004, with more claims reported than in the earlier part of that decade. It is too early to form a final view on the development of the most recent fund years' claims, such as 2014 through 2016, however there is a noticeable recent stabilization in the number of claims involving \$100,000 or more (as seen in the following charts).



**Count of Claims Valued at Greater than \$100,000  
by Age and Fund Year**



40. For 2017, LAWPRO expects direct claims costs alone to be \$93.0 million, a level which has also stabilized somewhat in recent years (see chart following). LAWPRO estimates total Program funds (that is, claims costs plus general expenses) required for 2017 to be \$120.0 million. This estimate is slightly above the current forecast of total Program funds needed for 2016, which is approximately \$119.2 million.



## **Risk Rating**

### **(a) Background**

41. As already discussed in this report, the Task Force Report concluded that the cost of insurance under the Program should generally reflect the risks.

42. Specifically the Task Force Report indicated that "...as a fundamental, shaping principle, the cost of insurance should generally reflect the differences in risk history, differing risks associated with different areas of practice, and differing volumes of practice. But no insurance program can be solely risk-reflective and there must be some sharing and spreading of risk."<sup>3</sup>

43. In keeping with this approach, LAWPRO regularly conducts detailed analyses of the risks associated with the Program. The earlier results of these analyses are summarized in previous Reports to Convocation. These analyses concluded that the practice of real estate and civil litigation represented a disproportionate risk when compared to other areas of practice, and that lawyers with a prior history of claims have a greater propensity for future claims than do other lawyers.

44. The objective of risk rating was finally achieved in 1999 by applying various discounts and additional levies (such as the real estate and civil litigation transaction levies and claims history levy) to the Program.

45. Risk rating, however, is not static. Because the relationship between the cost of claims and different areas of practice may change, LAWPRO must continue to monitor the Program to ensure that risk rating continues to be achieved. The results of these earlier risk analyses are re-evaluated each year, and the factors used to assess risk and determine premium under the Program are re-evaluated for degree of relevance. The

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<sup>3</sup> 1994 Task Force Report, page 17.

factors currently used to match risk to premium include area of practice, years in practice, claims history, liability for partners and associates, and size of practice.

46. As in the past, LAWPRO's risk analysis also examined the degree of specialization, size of firm, and geographic location of practice as possible factors to be used in assessing risk and setting premiums. The potential factors were examined individually and on a combined basis to determine any correlation or dependencies.

47. In 2016, this review has reaffirmed the overall validity of the rating structure currently in place, subject to certain adjustments in magnitude. The results of the customary re-evaluation of the earlier risk analyses are addressed in this report at paragraphs 53 to 70.

**(b) Practice Trends**

48. LAWPRO's present risk analysis reaffirms the results of its last report indicating that the practice of real estate and civil litigation represent a disproportionate risk when compared to other areas of practice. These two areas of practice represent 70 per cent of the claims reported and 64 per cent of the claims costs under the Program in 2015.

49. In particular

- a) Real estate claims costs have trended upwards since 2001, with real estate accounting for nearly 30 per cent of costs in many of those years. Since 2004, claims costs in this area of practice have increased almost 67 per cent;
- b) In 2015, the exposure relating to the practice of civil litigation again was substantially more than that traditionally seen, with civil litigation accounting for 44 per cent of the claims reported and 43 per cent of the claims costs under the Program;
- c) In 2015, the nature of claims against civil litigators was also reaffirmed, with missed limitation period claims (including administrative dismissals)

accounting for almost 31 per cent of litigation claims, whereas general conduct or handling of the matter accounted for about 69 per cent of these claims; and

- d) Lawyers with a prior claims history continue to have a considerably greater propensity for claims than other practising lawyers. Lawyers with claims in the prior 10 years were about five times more likely to report a claim during the past year than those with no claims in the prior 10 years.

50. The result of this analysis is summarized in the graphs contained in **Appendix “B”** of this report.

**(c) Risk Management Initiatives**

51. A principal mandate of LAWPRO is to help the legal profession manage the risk associated with practice. This is accomplished by providing lawyers with information, tools and resources that help them manage risk and practice in a more risk-averse fashion. Among LAWPRO’s major risk management initiatives are:

- **TitlePLUS® Program:** TitlePLUS insurance is a competitive title insurance product that has made a positive difference in the Ontario real estate market. It expands the choice offered to consumers and lawyers. It influences the behaviour of other title insurers. It educates consumers and has expanded policy coverages available to them. It also educates lawyers on title insurance and real estate trends. The TitlePLUS program promotes real estate lawyers and recommends that consumers seek the advice of lawyers when closing their real estate transactions.

TitlePLUS staff have also given presentations at various CPD programs on title insurance and fraud prevention measures in real estate transactions. These are designed to provide the legal profession, including new lawyers entering practice, with the tools they need to manage risk and avoid claims under both the professional liability and TitlePLUS programs.

“TitlePLUS Today”, the department’s news bulletin, is sent regularly to subscribing lawyers across Canada, providing legal and underwriting updates on current national real estate issues. Also, in recognition of the role support staff play in real estate transactions, the department publishes “TitlePLUS Tips”, a bulletin written especially for support staff in the offices of subscribing lawyers. To increase lawyer and clerk understanding of the products and risk management techniques, links to how-to videos and risk management videos were distributed via these newsletters.

LAWPRO has continued with its consumer education program, involving a media campaign highlighting the role of lawyers in real estate transactions and TitlePLUS insurance. In 2015 the campaign included articles, videos and radio clips resulting in over 13.3 million impressions in over 550 publications, websites and radio stations across Canada. Topics such as wills, home buying and home ownership risks highlighted ways in which lawyers can be of service to the public.

- **practicePRO<sup>®</sup> Program:** Now in its 18<sup>th</sup> year, LAWPRO’s successful risk management and claims prevention initiative is a recognized source of high-quality risk management tools and resources, both inside and outside of Ontario. This year, practicePRO staff helped lawyers avoid malpractice claims through articles in *LAWPRO Magazine* and other law-related publications, information on the practicePRO website and AvoidAClaim blog, social media, live presentations, and an exhibitor presence at CPD programs and other law-related events. The practicePRO program has significant presence in the legal community by maintaining relationships and actively working with its various constituents, including the Law Society, the Ontario and Canadian Bar Associations, local law associations, legal goods and service providers, the legal and mainstream press and others. To help lawyers improve their practices, the practicePRO lending library makes 150 of the best books on law practice, technology and risk management topics available on loan for free to all Ontario lawyers. In 2015, 111 books went out on loan to 71 lawyers.

- **LAWPRO Magazine:** With its strong risk management focus, LAWPRO's flagship publication continues to play an important role in helping lawyers avoid malpractice claims. Through an Annual Review issue of the magazine published each spring, LAWPRO provides lawyers with an overview of claims trends and an explanation of how these affected their premiums and LAWPRO's financial results. This Annual Review issue also provides information on LAWPRO's efforts to prevent claims and to advance lawyers' interests with the government and public opinion. The September 2015 issue of *LAWPRO Magazine*, titled *Finding Your Blue Sky* focused on the stresses and challenges of practicing law, and how lawyers can protect their physical and mental well-being. In January 2016, insights from Ontario Indigenous lawyers were the focus of the magazine. How to serve Indigenous clients effectively and respectfully, and the claims risks associated with getting it wrong, were outlined.
- **Fraud:** In terms of the potential risk they present to the Program, fraud-related claims are an ongoing and significant concern for LAWPRO. LAWPRO continues to take steps to combat fraud through measures within its own operations, its relationship with the legal profession, and by working as occasions arise with law enforcement, land registry, banking, insurance and other organizations and industries also affected by fraud. The Fraud Fact Sheet was updated in early 2015 with information on new trends and scams. This resource was downloaded 5,500 times from the practicePRO website and handed out at numerous CPD programs and events sponsored by the practicePRO and TitlePLUS programs in 2015. The AvoidAClaim blog, having reached the 1 million visitor milestone in 2016, continues to be an important tool for alerting lawyers to the latest email and online fraud scams as they happen. It averages almost 555 visitors a day and LAWPRO made 168 fraud-related posts in 2015. Lawyers from all over Ontario and elsewhere visit the blog after searching the names of fraudsters pretending to be prospective clients, often because the matters appear to be suspicious. The information provided by LAWPRO has helped many Ontario lawyers avoid being duped.

- **Rule 48 Admin Dismissals:** Effective January 1, 2015, a new Rule 48.14 brought significant changes to the administrative dismissal regime in Ontario. LAWPRO has strongly encouraged lawyers to take steps to familiarize themselves with the change requirements under the new Rule 48.14, and in particular the transition provisions. In 2015, this message was incorporated into 28 speaking engagements, *LAWPRO Magazine* and webzines, the AvoidAClaim blog and on social media. An eight-page Rule 48 Transition Toolkit is currently in distribution.
- **Consultations:** LAWPRO actively works with various entities to ensure that professional liability and risk management concerns are taken into account when policy issues were under discussion. LAWPRO has made submissions to the Law Society on a variety of formal and informal consultations, including the corporate and insurance issues that entity regulation and ABS implementation would raise, and on advertising and referral fees. LAWPRO made a submission to the Ministry of the Attorney General on the Family Legal Services Review, and another to the Business Law Advisory Council on proposed reforms to the *Arthur Wishart Act (Franchise Disclosure)*. LAWPRO presents risk management information to students at the Law Practice Programs at Ryerson.
- **The LAWPRO Risk Management Credit:** This premium credit offered under the Program is another significant LAWPRO risk management initiative. In 2001, a premium credit of \$50 was first offered to lawyers using the practicePRO Online Coaching Centre, an Internet-based, self-coaching tool that helps lawyers enhance their business and people skills. The premium credit was broadened in the following year to provide a \$50 credit (to a maximum of \$100 per lawyer per year) for designated law-related CPD programs completed by the lawyer. For a credit on premiums for 2017, lawyers (and paralegal partners in combined licensee partnerships) must have participated in LAWPRO-approved CPD programs between September 16, 2015 and September 15, 2016. In addition to the Online Coaching Centre and

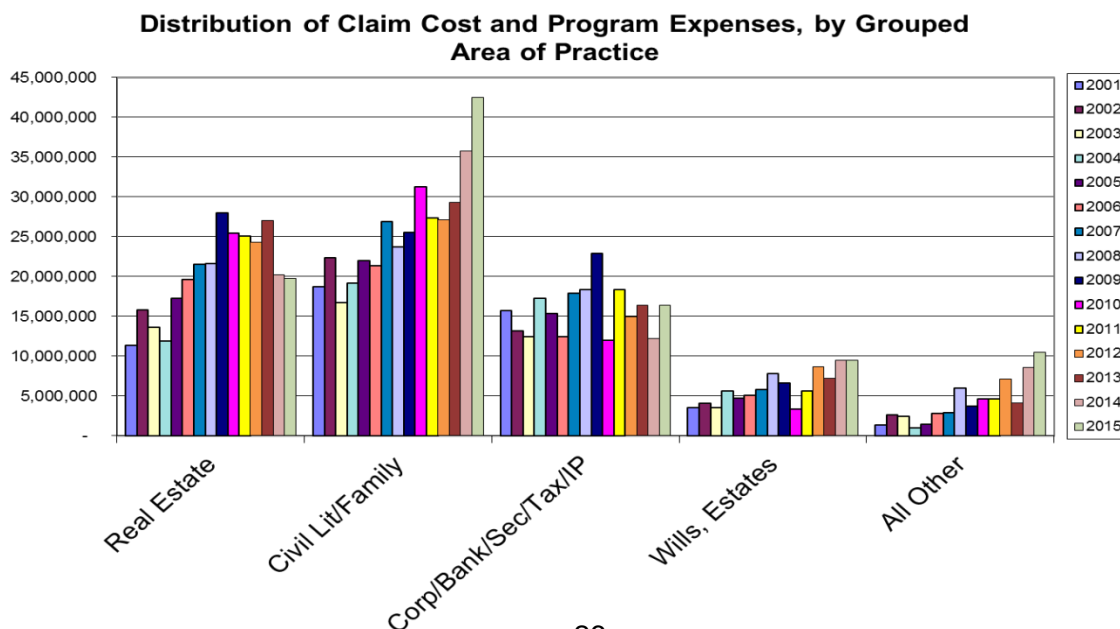
Homewood Health e-Courses, 260 programs qualified for the credit during this period. These programs together had approximately 50,000-55,000 attendees.

Prior to the implementation of the LAWPRO Risk Management Credit, most CPD programs focused solely on substantive law. Due to the Risk Management Credit and the Law Society’s new focus on mandatory ethics and professionalism content, a significant number of Ontario CPD programs have been broadened to include risk management and claims prevention content.

**52. In addition to the other risk management initiatives described above, the LAWPRO Risk Management Credit will be continued for the 2017 Program, with a \$50 premium credit per approved CPD program, subject to a \$100 per lawyer maximum amount, to be applied for pre-approved legal and other educational programs taken and successfully completed by lawyers between September 16, 2015, and September 15, 2016, for which the lawyer has successfully completed the online Risk Management Credit Declaration Form.**

**(d) Revalidating Risk Rating**

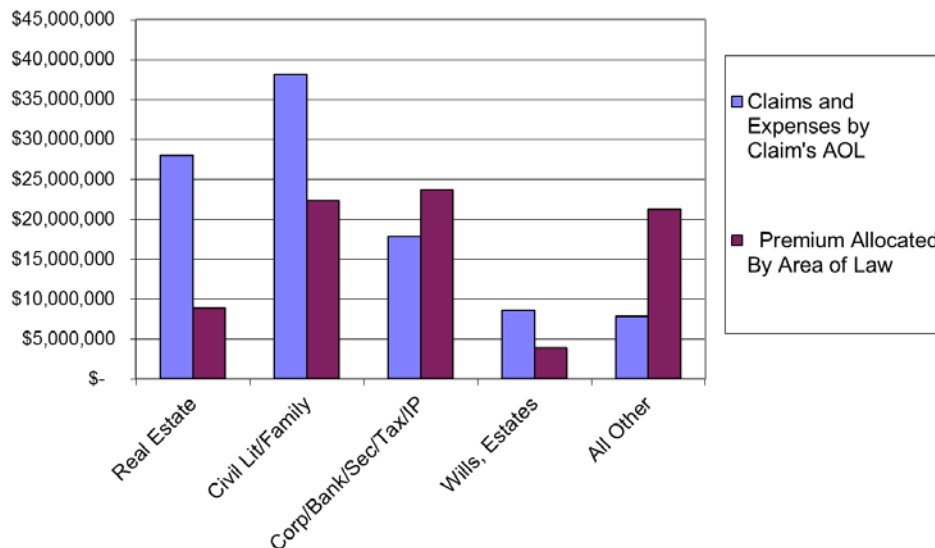
53. It is important to periodically re-evaluate the Program by area of practice to ensure that it continues to be effective in its risk rating. The following chart shows the distribution of ultimate expected claims costs by detailed area of practice.



54. Apparent from this chart are the significant claims costs in certain practice areas and the fact that real estate and litigation continue to be higher risk on a consistent basis over a multi-year period. At the same time, the fact that few lawyers practice exclusively in one area provides a compelling reason to group together common or related areas of practice.

55. To ensure that risk rating is being achieved, the Program's anticipated losses and related costs must be compared to the premiums. Based on the most recent loss experience under the Program (including that seen under the Program up to December 31, 2015), the following chart compares the anticipated losses and costs distributed by area of law to the proposed base premiums by primary area of practice. The premiums in this chart include the proposed base premiums with real estate practice coverage, innocent party and base premium adjustments, but exclude transaction levies and claims history surcharges.

**Comparison of Projected 2017 Premium by Lawyer's Primary Area of Practice to Claims and Expenses by Claim's Area of Law**



56. The shortfall between the anticipated claims costs and expenses to base premiums is particularly significant for the areas of real estate law and civil litigation.

57. The latest Program statistics indicate that without the benefit of the transaction and claims history levy revenues, the 2017 base premium would be about \$9,000 for those whose primary area of practice is real estate.

58. Past Reports to Convocation have discussed the importance of using the transaction and claims history surcharge levies as premiums, to avoid any substantial dislocation among the bar in the higher areas of practice which would otherwise occur with risk rating.<sup>4</sup>

59. By including the transaction and claims history surcharge levies in most recent years, a shortfall for real estate and civil litigation claims costs is typically overcome. Therefore, it is proposed to maintain the levies at the same level for 2017.

60. In April 2008, LAWPRO introduced a Real Estate Practice Coverage Option (“REPCO”). Since inception, one REPCO claim has arisen, representing a limit loss of \$250,000 which was paid out. LAWPRO is maintaining an actuarial loss reserve for potential incidents that have occurred but have not yet been reported to LAWPRO. (Since the essence of REPCO coverage is to compensate for an act of fraud by the insured lawyer involving access to the electronic land registration system, it is unlikely that there will be an immediate report by the lawyer involved; therefore, LAWPRO is making a conservative assumption that there will often be delays in reporting under this coverage.) Having said that, due to beneficial claims experience, the REPCO premium has been reduced over time from \$500 in 2008 to \$100 in 2016.

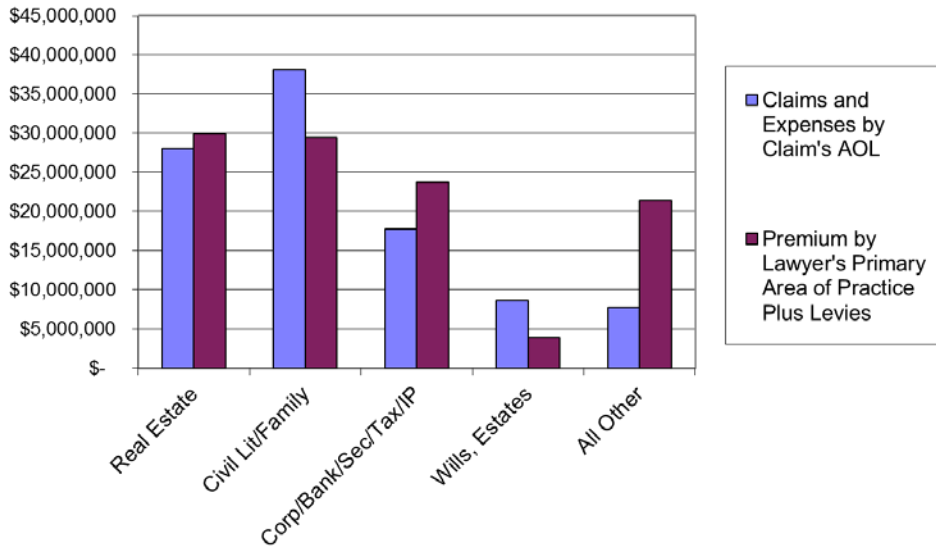
61. For 2017, the premium for REPCO will be held at \$100.

62. The following chart compares the anticipated premiums sorted by the lawyer’s primary area of practice (plus the claims history surcharge, REPCO premium and transaction levies) to the anticipated claims costs and expenses for each area of law.

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<sup>4</sup> 1999 LAWPRO Report to Convocation, pp. 18-22; 1998 LAWPRO Report to Convocation, pp. 37-37; and 1996 LAWPRO Report to Convocation, pp.32-36.

**Comparison of Projected 2017 Premium by Lawyer's Primary Area of Practice + Allocated Levies to Claims and Expenses by Claim's Area of Law**



63. This comparison indicates that, with the benefit of the transaction and claims history surcharge levies, and including the REPCO premium, there is a more acceptable correlation between revenues and claims for the major practice areas. Although some moderation in civil litigation claims costs can be expected over time with the recent change in Rule 48, the continued growth in civil litigation costs will need to be monitored to determine whether any action should be taken on this category.

64. The graph does indicate some subsidy by area of practice, especially by the practitioners in the "All Other" category. This subsidy changes somewhat over time and may vary considerably from year to year for the smaller practice areas, if they were broken down in greater detail.

65. The area of wills and estates has experienced an increase in claim costs over the past decade. Given the relatively small number of practitioners in this area, a few large claims often skew the results. LAWPRO will continue to monitor these results and propose any action, if appropriate, at a future date.

66. Appreciating the foregoing variables and possibilities of comparison by area of practice, it appears that the Program does substantially meet its objectives of risk rating,

and that the proposed Program will continue to do so in the coming year. Although some subsidy may exist for certain areas of practice, when taking into account operating costs and commercial realities, the cost of insurance under the Program is considered to generally reflect the risk. Notably, the Task Force Report acknowledged that "...no insurance program can be solely risk-reflective and there must be some sharing and spreading of risk."<sup>5</sup>

67. Other aspects reviewed in the analysis included the exposure based on the size of the firm, year of call, geographic location and prior claims history. The overall results of this analysis reaffirm the premium discounts already in place, including the surcharge applied to practitioners with a prior claims history. The results of this analysis are reproduced in select graphs in **Appendix "B"**.

68. Although the volume (size) of practice may not be wholly determinative of risk, the transaction levies do reflect the volume of business transacted in a practice, as well as the higher risk associated with real estate conveyancing and civil litigation.

69. Accordingly, the LAWPRO Board is satisfied with the continued use of transaction and claims history levy revenues as premium, with the result that the cost of insurance under the Program continues to generally reflect the risk.

70. Various examples of premiums which would be charged to members depending on the nature of their practice are summarized in **Appendix "C"** of this report.

### **Reinsurance and Capital Preservation**

71. LAWPRO annually assesses its need for reinsurance based on its capital position and its claims results and volatility.

72. In its early years, LAWPRO purchased Program-wide quota share reinsurance. A stronger financial position and more stable claims experience enabled LAWPRO to

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<sup>5</sup> 1994 Insurance Committee Task Force Report, at page 17.

cease reinsuring the Program with quota share reinsurance starting in 2003. In addition to relying on LAWPRO's own capital, the resources of the Errors & Omissions Fund up to a \$15 million cap were effectively relied on starting in 2003.

73. For 2017, it is proposed that there continue to be a \$15 million dollar cap on the Errors & Omissions Fund's exposure to provide additional premium to LAWPRO. As in 2010 through 2016, to the extent that the net loss ratio exceeds the anticipated loss ratio for the year by an absolute 10 per cent, the Errors & Omissions Fund would cover the losses. The 2010 through 2017 backstop provisions will be evaluated separately, with the \$15 million limit shared by the eight fund years. The lower likelihood of a payout by the Errors & Omissions Fund in this regime, as it commenced on January 1, 2010, makes the protection more akin to a catastrophic coverage, providing payout only in the unlikely scenario that an insurance fund year experienced significant deterioration from its initial expectations.

74. By relying on its own resources and the \$15 million backstop from the Errors & Omissions Fund as described above, LAWPRO will not need to pursue the expensive course of purchasing reinsurance on a Program-wide basis.

75. For 2017, LAWPRO will again look to purchase reinsurance protection against the possibility of multiple losses arising out of a common event or nexus, as it has since 2005 (the "Clash Excess of Loss Reinsurance"). This protection against aggregated losses extends across both the professional liability and TitlePLUS programs, and offers some measure of protection against a series of claims, such as fraud-related claims where the fraudster targets more than one lawyer, or a single defect in the title affecting an entire condominium project.

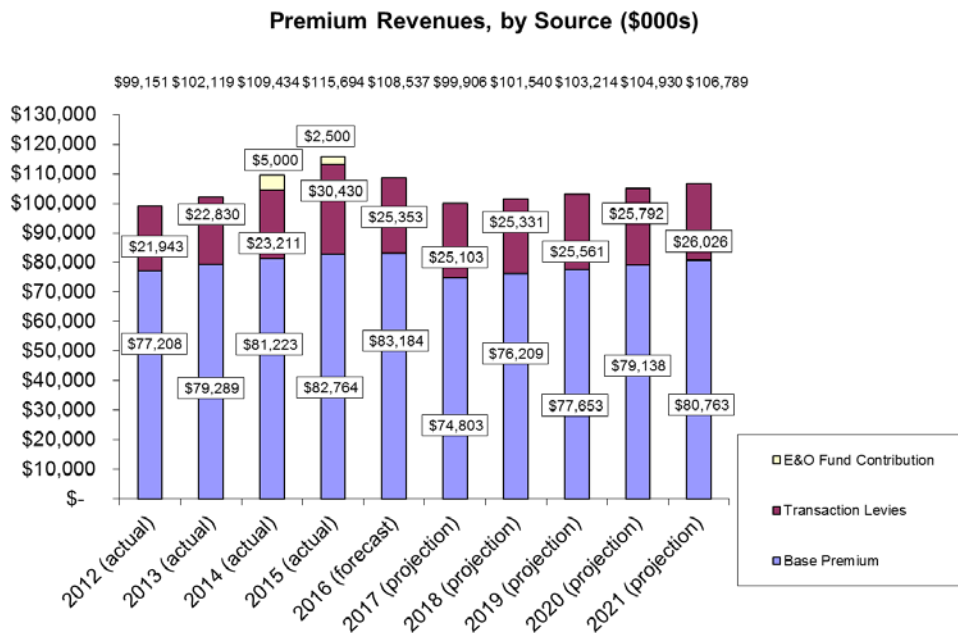
76. Since January 1, 2013, LAWPRO has purchased an additional \$20 million limit above what had been the existing \$10 million limit under the Clash Excess of Loss Reinsurance (for a possible total limit of \$30 million in coverage above LAWPRO's retained exposure). For 2017, LAWPRO will again look to purchase the higher layer of protection.

77. Accordingly, 100 per cent of the premiums and losses for the Program will again be retained by LAWPRO in 2017, subject to limited capital backstop protection provided by the Errors & Omissions Fund, and reinsurance protecting the Program from multiple losses arising out of a common event or nexus.

## Revenues

78. To meet the total expected Program obligations for 2017, LAWPRO first evaluates its likely investment income, and then considers premium sources. By way of contrast with some recent years, there will be no contribution from the Errors & Omissions Fund to minimize the base premium; rather premium revenues to meet fiscal requirements for 2017 will come only from two principal resources: the base premium<sup>6</sup> and levy surcharges.

79. The projected premium revenues from these two sources are as follows:



<sup>6</sup> “Base premiums” includes base premiums with applied discount or charges, as well as innocent party and REPCO premiums.

**(a) Investment Income**

80. LAWPRO takes full advantage of the time between the collection of premiums and the payment of claim costs by investing any available funds into a well-diversified portfolio of fixed income and equity securities. LAWPRO uses the resulting investment income to help pay operating and claims expenses, thereby reducing the amount of funds that must come from premium sources.

81. LAWPRO provides further stability to the Program by segregating into a separate portfolio (the liability-matched portfolio) sufficient money to pay anticipated future claims costs, with any surplus capital held in a different portfolio. The securities in the liability-matched portfolio consist of high-quality government and corporate fixed income securities, with the future cash inflows to LAWPRO arranged to coincide with the expected payout patterns of the future claim costs. The surplus portfolio consists of a prudent mix of fixed income and equity securities.

82. Since 2008, investment returns have weakened due to fallout from the worldwide credit crunch. In particular, with central banks such as the Bank of Canada lowering their overnight interest rates to rock-bottom levels, the rates of return on fixed income securities have also dropped significantly. For LAWPRO, the downward pressure on returns is exacerbated as fixed income securities mature and need to be reinvested at these low rates. A prolonged “low for long” environment would place continued pressure on fixed income yields, while the eventual rise in central bank rates could result in a shock to fixed income security prices. As a result of these risks, LAWPRO has maintained a prudent investing philosophy to protect this portfolio, with its expected return set at a modest 3.25 per cent.

83. LAWPRO’s prudent investing philosophy includes a conservative, well-diversified equity portfolio. Of note, this portfolio’s annualized return from before the 2008 market crash up until June 30, 2016 was very respectable, at just over five percent. Overall, LAWPRO’s portfolio is well-positioned for both capital preservation and steady growth.

**(b) Levy Surcharge**

84. The Ontario real estate market has been quite resilient in the last few years, but there are indications that the market will be varied in the near term. The Second Quarter 2016 Housing Market Outlook (Canada Edition) published by Canada Mortgage and Housing Corporation<sup>7</sup> indicates that housing activity is expected to grow overall in 2016 before slowing in 2017. This outlook is subject to various risks, such as weaker than expected job growth and growing housing market imbalances. The number of resale transactions increased by 9.6 per cent in 2015, and is forecast to increase between 0.4 per cent and 4.2 per cent in 2016, but then decrease by up to 8.7 per cent in 2017. Regarding new housing starts, after a 18.6 per cent increase in 2015, results are forecast to increase between 1.6 per cent and 4.7 per cent in 2016 before dropping up to 14.0 per cent in 2017.

85. At present, the levy surcharges include a \$50 civil litigation transaction levy and a \$65 real estate transaction levy, as well as a claims history levy surcharge.<sup>8</sup> Revenues from these levy surcharges are applied as premiums, to supplement the base levy.

86. Civil litigation and claims history levy surcharge revenues have been quite stable over time, while the revenue from real estate transaction levies declined by approximately 50 per cent between 1999 and 2009 (prior to the increase in levy for the 2010 Program).

87. The increased use of title insurance is considered to be largely responsible for a reduction in the count of real estate transaction levies since 1999. Lawyers acting for those obtaining an interest or charge in the land in many instances are not required to pay a transaction levy, where the interests of all parties obtaining an interest or charge in the property are title-insured, and the acting lawyer or lawyers are provided with the

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<sup>7</sup> [https://www.cmhc-schl.gc.ca/odpub/esub/61500/61500\\_2016\\_Q02.pdf?fr=1469545442942](https://www.cmhc-schl.gc.ca/odpub/esub/61500/61500_2016_Q02.pdf?fr=1469545442942)

<sup>8</sup> The claims history levy surcharge ranges from \$2,500 for a lawyer with one claim paid in the last five years in practice, to \$25,000 for a lawyer with five claims paid in the last five years in practice (an additional \$10,000 is levied for each additional claim paid in excess of five).

appropriate release and indemnity protection by the title insurer, based on a standard form agreement entered into between the title insurer and the Law Society on behalf of Ontario lawyers.

88. It is estimated that more than 90 per cent of residential real estate transactions in Ontario are title-insured.<sup>9</sup> In recent years, the number of real estate transaction levies collected has moved in tandem with residential real estate sales. This indicates a maturity or saturation of this market for title insurance.

89. More recently, the number of transaction levies stabilized as a result of the solid Ontario real estate sales. As of June 2016, transaction levy revenues are above expectations, at \$1.6 million over budget.

90. To account for ongoing uncertainties in the real estate market and the prospect of a shortfall, a conservative approach has been taken in estimating revenues from levy surcharges for 2017.

91. As described above in this report, the use of transaction levies ensures an element of risk rating in the Program, as both real estate and civil litigation continue to represent a disproportionate risk when compared to other areas of legal practice. The use of levies also avoids the substantial dislocation which likely would occur if the base premiums were increased to reflect the risk, and reflects the consensus reached with the affected sectors of the bar and others in the profession as the most equitable way to achieve risk rating when introduced in 1995.

92. For 2017, LAWPRO estimates transaction levy revenues at \$25.1 million.

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<sup>9</sup> LAWPRO makes this estimate based on the correlation between real estate sales data and transaction levy fillings.

**(c) Errors & Omissions Fund**

93. The insurance related transactions between the Law Society, insured lawyers and LAWPRO flow through the Errors & Omissions Fund. Through the Fund, insurance premiums and levies are collected from lawyers (and related insureds) on behalf of the Law Society. From this Fund, LAWPRO, as the insurer, is paid. While in recent years the Errors & Omissions Fund had a balance held well over \$60 million, after payment of current year's premium and calculating the reserve needed for pre-1995 claims which remain the responsibility of the Errors & Omissions Fund, the vast majority of those funds have already been committed for specific purposes, such as the \$15 million Program backstop (see paragraphs 71 through 77) and the Errors & Omissions Fund's investment in LAWPRO shares.

94. The current LAWPRO five-year projection does not assume further contributions from the Errors & Omissions Fund to support the base rate premium, or any backstop for levy surcharges of any type.

**(d) Capital Requirements**

95. As LAWPRO has worked through some quite challenging times, its' prudent and conservative approach to the issues of the day has stood it in good stead. LAWPRO has maintained a solid capital base, as well as a robust asset-liability matching program to ensure that the funds are available to satisfy the claims obligations undertaken to date. Also, LAWPRO has received a consistent "A" (Excellent) rating from A.M. Best Co. each year since 2000, and in 2016 has retained its "stable" outlook based on its commanding market profile and recent improvement in operating and underwriting results. (An "outlook", which looks more to the future, is different from a "rating".)

96. As a final consideration before determining the base premium, LAWPRO must consider its capital needs. Canadian regulators use the Minimum Capital Test ("MCT") in order to assess capital adequacy of a property and casualty insurer. The MCT is a risk-based ratio calculation which compares the insurer's capital or net assets available to the "capital required". Through the capital required component of the test, regulators

prescribe certain additional capital or margins that must be held based on the various types of assets and liabilities on the insurer's balance sheet.

97. A significant margin requirement relates to the approximate 25 per cent additional capital that must be held for all the net claims liabilities on the books that relate to commercial liability (which includes professional liability coverage). Given the steady historical growth of LAWPRO's net claims liabilities over the last decade or so, even a positive net income result can often lead to a decline in LAWPRO's MCT ratio. As a very general rule of thumb, LAWPRO requires approximately \$5 million of either net income or increased after-tax net unrealized gains on its surplus portfolio<sup>10</sup> to maintain a flat to slightly increasing MCT ratio.

98. The determination of a specific insurer's "ideal" MCT ratio is no easy task, as historic industry approaches were primarily designed simply to identify levels that are too low. Canadian regulators require that insurers do not fall below various MCT levels, such as the 100 per cent minimum and 150 per cent supervisory levels. Earlier this year, the Company completed its first capital assessment pursuant to the *Autorité des Marchés Financiers' Guidance on Capital Adequacy Requirements*, and the Office of the Superintendent of Financial Institutions' *Guideline E-19 Own Risk and Solvency Assessment*, resulting in LAWPRO's internal target ratio being lowered from 180 per cent to 170 per cent.

99. In addition, as part of the above exercise, the Board set the Company's long term preferred operating range at 215 to 240 per cent based on LAWPRO's risk profile and its unique ability to set premiums and raise capital, which differs significantly from those of other commercial insurers in Canada. An MCT in this range would allow LAWPRO some capacity to absorb unexpected losses or changes in market conditions, and have time to implement a strategy to restore capital levels to the desired range.

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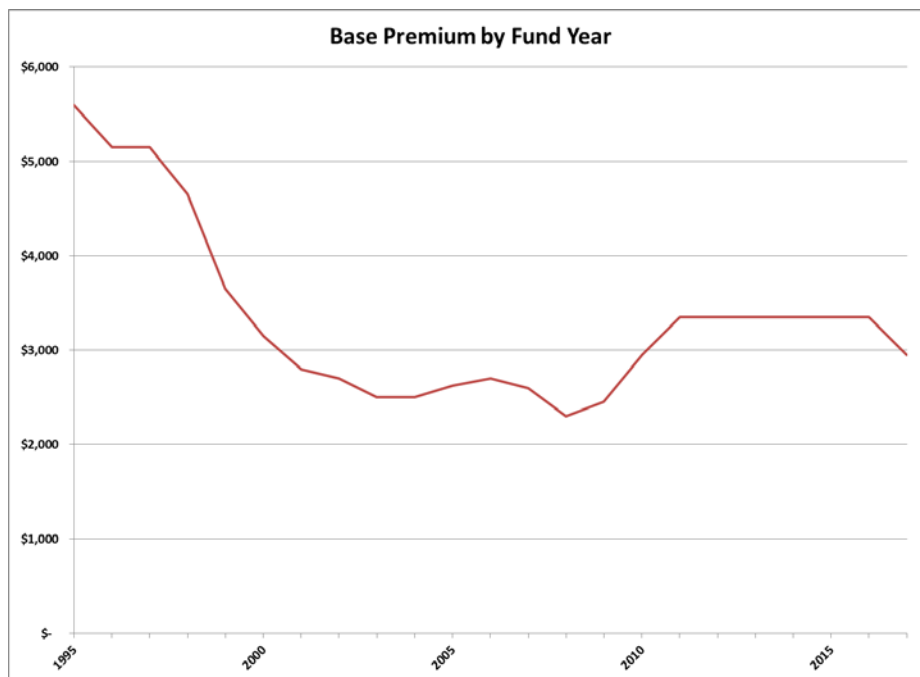
<sup>10</sup> Increases in net unrealized gains relating to the liability-matched portfolio, as well as realized gains, are included in net income.

100. LAWPRO's MCT at 251 per cent as of June 2016 is above the Board's preferred operating range, indicating that a continued phase of capital replenishment is not currently required.

**(e) Base Premiums**

101. Based on the previous discussion of Program costs, sources of revenue and capital needs, the base premium will be set at \$2,950 per member to account for LAWPRO's recent levelling of claims costs, as well as its overall solid fiscal performance during the last couple of years. In summary, the 2017 proposed base premium is based on the following key assumptions:

- 26,700 practising insured lawyers (full-time equivalents);
- \$120.0 million in anticipated total Program costs (paragraph 40);
- \$25.1 million in budgeted transaction levy revenues (paragraph 92); and
- 3.25 per cent return on investment (paragraph 82).



102. At this time, the Board is satisfied that this base premium rate appropriately recognizes the uncertainties in emerging claims experience and economic conditions, and allows the Program to continue to operate on a self-sustaining basis while protecting LAWPRO's overall financial position. The approach taken is consistent with information provided in the Report to Convocation in recent years. It should be noted that a base premium of \$2,950 per lawyer in 2017 is significantly lower than premiums charged at points in the past. In fact, if inflation were removed, this premium would be the equivalent to about \$1,950 in 1995 dollars.

103. In setting a base rate for 2017, LAWPRO tested its five-year planning horizon under various scenarios. Overall LAWPRO results are projected to exceed break-even, though allowing LAWPRO to gradually reposition its capital position to within the Company's preferred operating range. Many factors influence this forecast, most significantly interest rates and claims experience. The results of this forecast cannot be considered definitive in nature and further base rate increases may be required in future years.

**104. Accordingly:**

- a) The base premium is \$2,950 per lawyer for 2017, a decrease of \$400 from the base premium charged in 2011 through 2016;**
- b) Revenues from real estate and civil litigation transaction levies collected by the Errors & Omissions Fund during the year are budgeted at \$25.1 million for the purposes of establishing the base premium for 2017 and other budgetary purposes; and**
- c) The premium for the Real Estate Practice Coverage Option will, for the second year, be set at \$100.**

**(f) *Other Program Features (or Adjustments)***

105. With the exception of the changes specifically described in this report, all aspects of the Program for 2017 will remain unchanged from the Program now in place.

106. As detailed in **Appendix “A”**, subject to the noted changes, the current Program for lawyers in private practice encompasses the following:

- Standard practice coverage, including Mandatory Innocent Party Coverage; and
- coverage options, including Innocent Party Buy-Up, Part-Time Practice, Restricted Area of Practice, and Real Estate Practice.

107. The current Program also provides for premium discount and surcharges. Discount and surcharges as a percentage of premium include:

- New Lawyer discount;
- Part-Time Practice discount;
- Restricted Area of Practice Option discount;
- adjustments for deductible options and minimum premiums; and
- a surcharge in the event that no completed application form is filed.

108. Discounts and surcharges as stated dollar amounts include:

- the Mandatory Innocent Party premium;
- optional Innocent Party Buy-Up premium;
- the Real Estate Practice Coverage premium;
- premium discount for early lump sum payment;
- e-filing discount; and
- Continuing Professional Development discount.

**109. Subject to the changes identified earlier in the report, the remaining exemption criteria, policy coverage, coverage options, and premium discounts and surcharges in place in 2016 will remain unchanged for the 2017 Program.**

## **CONCLUSION**

110. The LAWPRO Board considers the Program changes to be appropriate and consistent with its mandate as set out in the 1994 Insurance Committee Task Force Report. The LAWPRO Board offers this Program of insurance for 2017 and asks for Convocation's acceptance of this Report at the September Convocation, so that the 2017 Program can be implemented by January 1, 2017.

ALL OF WHICH LAWPRO'S BOARD OF DIRECTORS RESPECTFULLY SUBMITS TO CONVOCATION.

September 2016

Susan T. McGrath

Chair of the Board

Lawyers' Professional Indemnity Company

Ian D. Croft

Vice-Chair of the Board

Lawyers' Professional Indemnity Company

## **Appendix “A”**

### **The Standard Program Coverage for 2017<sup>11</sup>**

#### *Eligibility*

- Required of all lawyer sole practitioners, lawyers practising in association or partnership, paralegals acting in partnership with lawyer(s), paralegals holding shares in professional corporations with lawyer(s) and lawyers practising in a LAW CORPORATION, who are providing services in private practices.
- Required of all other lawyers (e.g. retired lawyers, in-house corporate counsel and other lawyers no longer in private practice) who do not fully meet the Program exemption criteria.
- Available to lawyers who do meet the exemption criteria but opt to purchase the insurance coverage.

#### *Coverage Limit*

- \$1 million per CLAIM/\$2 million aggregate (i.e. for all claims made in 2017), applicable to CLAIM expenses, indemnity payments and/or cost of repairs together.

#### *Standard DEDUCTIBLE*

- \$5,000 per CLAIM applicable to CLAIM expenses, indemnity payments and/or costs of repairs together.

#### *Standard base premium*

- \$2,950 per insured lawyer.

#### *Transaction Premium Levy*

- \$65 per real estate transaction and \$50 per civil litigation transaction;

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<sup>11</sup> Terms entirely capitalized are as defined in the Program policy.

- No real estate transaction levy generally payable by transferee's lawyer if title-insured.

*Premium reductions for new lawyers*

- Premium for lawyers with less than 4 full years of practice (private and public):
  - ◇ less than 1 full year in practice: premium discount equal to 50 per cent of base premium;
  - ◇ less than 2 years in practice: premium discount equal to 40 per cent of base premium;
  - ◇ less than 3 years in practice: premium discount equal to 30 per cent of base premium;
  - ◇ less than 4 years in practice: premium discount equal to 20 per cent of base premium;

**Mandatory Innocent Party Coverage**

*Eligibility*

The minimum coverage of \$250,000 per CLAIM/in the aggregate must be purchased by paralegals in partnership with lawyer(s), paralegals who own shares in LAW CORPORATIONS with lawyer(s) and all lawyers practising in association or partnership (including general, CLP, MDP and LLP partnerships), or in the employ of other lawyers.

The minimum coverage must also be purchased by all lawyers practising in a LAW CORPORATION, where two or more lawyers practise in the LAW CORPORATION.

*Premium*

\$250 per insured lawyer.

## 2017 Program Options

### 1. Deductible option

*\$Nil deductible*

- Increase in premium equal to 15 per cent of base premium (\$442.50 increase).

*\$2,500 deductible applicable to claim expenses, indemnity payments and/or costs of repairs together*

- Increase in premium equal to 7.5 per cent of base premium (\$221.25 increase).

*\$2,500 deductible applicable to indemnity payments and/or costs of repairs only*

- Increase in premium equal to 12.5 per cent of base premium (\$368.75 increase).

*Standard Program: \$5,000 deductible applicable to claim expenses, indemnity payments and/or costs of repairs together*

- Base premium of \$2,950 per insured lawyer.

*\$10,000 deductible applicable to claim expenses, indemnity payments and/or costs of repairs together*

- Decrease in premium equal to 7.5 per cent of base premium (\$221.25 decrease).

*\$10,000 deductible applicable to indemnity payments and/or costs of repairs only*

- Increase in premium equal to 7.5 per cent of base premium (\$221.25 increase).

*\$25,000 deductible applicable to claim expenses, indemnity payments and/or costs of repairs together*

- Decrease in premium equal to 12.5 per cent of base premium (\$368.75 decrease).

## 2. Innocent Party Sublimit Coverage Options

### ***Innocent Party Coverage Sublimit Buy-Up: For lawyers practising in associations, partnerships and LAW CORPORATIONS***

Lawyers practising in association or partnership (including general, CLP, MDP and LLP partnerships) or a LAW CORPORATION (with more than one practising lawyer), paralegals in partnership with lawyers, or paralegals holding shares in professional corporations with lawyers, can increase their Innocent Party Coverage in two ways:

Increase coverage sublimit to:	Additional annual premium:
\$500,000 per claim/aggregate	\$150 per insured lawyer
\$1 million per claim/aggregate	\$249 per insured lawyer

### ***Optional Innocent Party Coverage Sublimit: For sole practitioners and lawyers practising alone in a LAW CORPORATION***

#### *Coverage sublimits*

- \$250,000 per claim/in the aggregate
- \$500,000 per claim/in the aggregate
- \$1 million per claim/in the aggregate

### **3. Practice Options**

#### ***Restricted Area of Practice Option***

##### *Eligibility*

Available only to lawyers who agree to restrict their practice to criminal<sup>12</sup> and/or immigration law<sup>13</sup> throughout 2017.

##### *Premium*

Eligible for discount equal to 50 per cent of base premium, to a maximum of \$1,475.<sup>14</sup>

#### ***Part-Time Practice Option***

##### *Eligibility*

Available only to part-time practitioners who meet the part-time practice criteria.

##### *Premium*

Eligible for discount equal to 50 per cent of base premium, to a maximum of \$1,475.

#### ***Designated Agency Employee Option***

##### *Eligibility*

Available only to lawyers who are employed by and agree to restrict their practice to PROFESSIONAL SERVICES provided on behalf of their DESIGNATED AGENCY(IES) employers throughout 2017. Lawyers electing this option must not elect a deductible option of more than \$5,000 per claim. This discount cannot be combined with the Restricted Area of

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<sup>12</sup> Criminal law is considered to be legal services provided in connection with the actual or potential prosecution of individuals, municipalities and government for alleged breaches of federal or provincial statutes or municipal by-laws, generally viewed as criminal or quasi-criminal.

<sup>13</sup> Immigration law is considered to be practice of law dealing with any and all matters arising out of the *Immigration and Refugee Protection Act* (S.C. 2001, c.27) and regulations, and procedures and policies pertaining in this report, including admissions, removals, enforcement, refugee determination, citizenship, review and appellate remedies, including the application of the *Charter of Rights and Freedoms* and the *Bill of Rights*.

<sup>14</sup> The maximum premium discount for Restricted Area of Practice, Part-Time Practice options and the New Lawyers' discount combined cannot exceed 50 per cent of the base premium.

Practice, Part-Time Practice, New Lawyers' or early lump sum premium payment discounts. Lawyers claiming the Designated Agency Employee option are not required to maintain Innocent Party coverage and are eligible for the e-filing and LAWPRO Risk Management Credit discounts.

#### *Premium*

Eligible for discount equal to 75 per cent of base premium, to a maximum of \$2,212.50.

### ***Real Estate Practice Coverage Option***

#### *Eligibility*

All lawyers who intend to practice real estate law in Ontario in 2017 must be eligible for and apply for this coverage option.

“ELIGIBLE” means eligible to practice real estate law in Ontario, as permitted by the Law Society. Categories of lawyers who would not be eligible to practice real estate law in Ontario, include:

- those who are in bankruptcy;
- those who have been convicted or disciplined in connection with a real estate fraud;
- those under investigation, where the Law Society obtains an interlocutory suspension order or a restriction on the lawyer's practice prohibiting the lawyer from practicing real estate, or an undertaking not to practise real estate.

#### *Premium*

\$100 per insured lawyer.

## **4. Premium Payment Options**

### ***Instalment Options***

- Lump sum payment by cheque or pre-authorized bank account debit: eligible for \$50 discount

- Lump sum payment by credit card
- Quarterly instalments
- Monthly instalments

## **5. E-filing Discount**

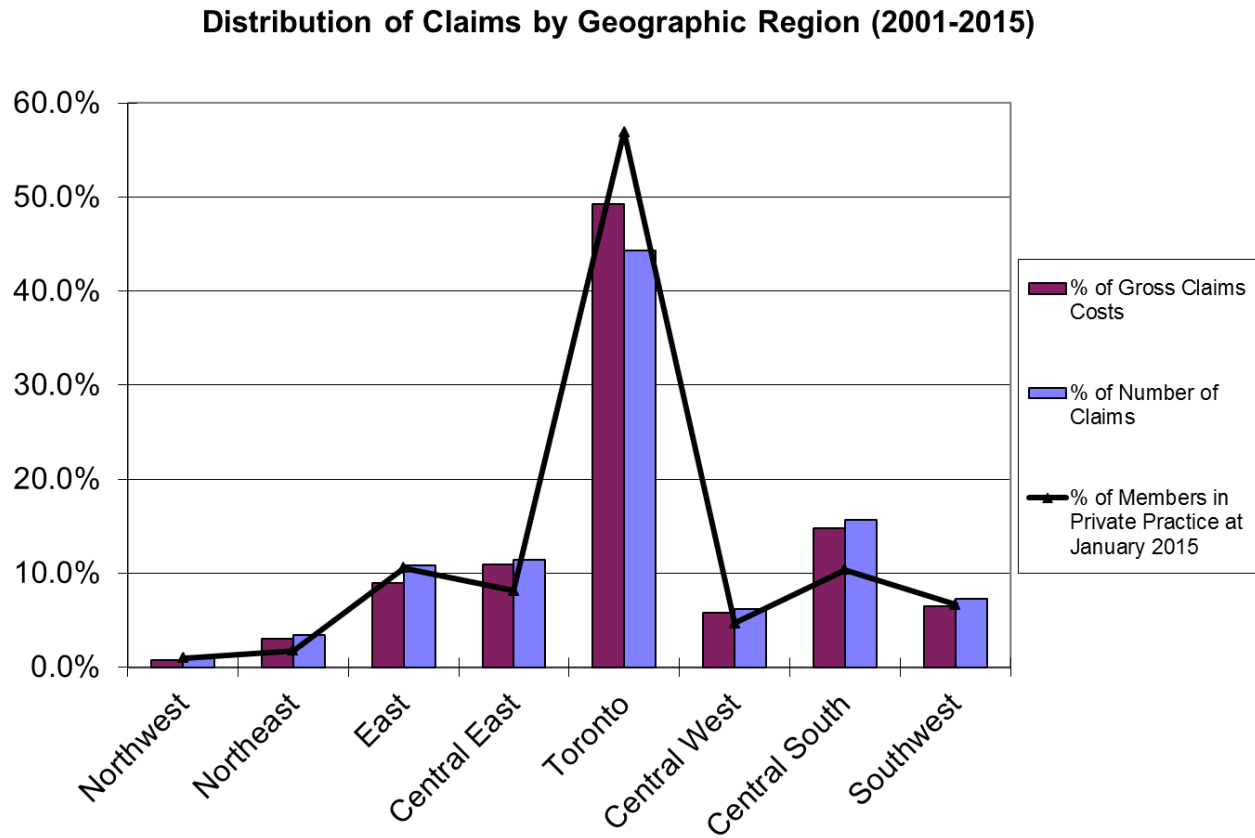
- \$25 per insured lawyer (for renewal applications filed online on or before November 3, 2016)

## **6. LAWPRO Risk Management Credit**

- \$50 per course, subject to a \$100 per insured lawyer maximum discount, will be applied under the 2017 insurance Program.
- Under the expectation that this will continue under the 2018 Program, LAWPRO will continue to collect data for pre-approved legal and other educational risk management courses taken and successfully completed by the insured lawyer between September 16, 2016, and September 15, 2017, where the lawyer completes and files the required LAWPRO Risk Management Credit online declarations by September 15, 2017.
- LAWPRO's Online Coaching Centre is included as a pre-approved course, where the insured lawyer or paralegal completes at least three modules between September 16, 2015, and September 15, 2016 towards the 2017 Program insurance.
- The premium credit includes credit for select programs offered by the Law Society's Member Assistance Program (MAP) (to a \$100 per insured maximum amount).
- The premium credit is also available to paralegal partners or shareholders in combined licensee firms insured under the Program.

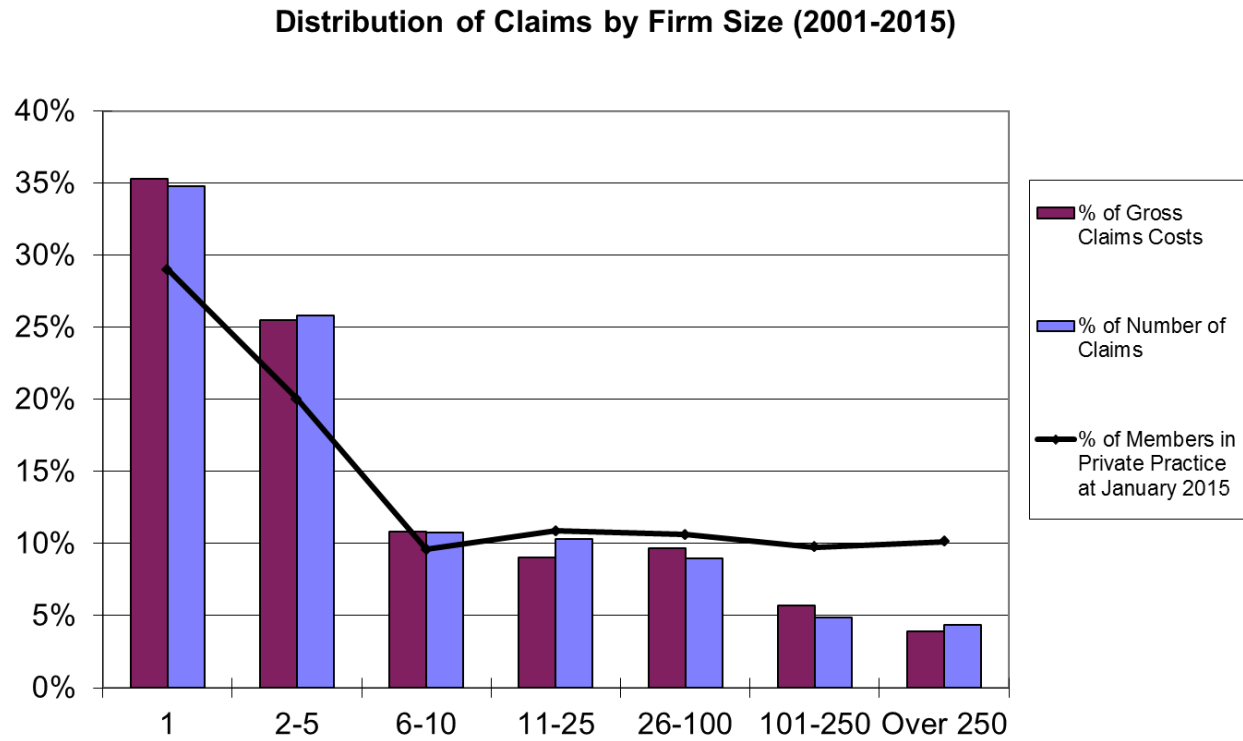
**Appendix "B"**

**Distribution of Claims by Geographic Region**



**Appendix "B"**

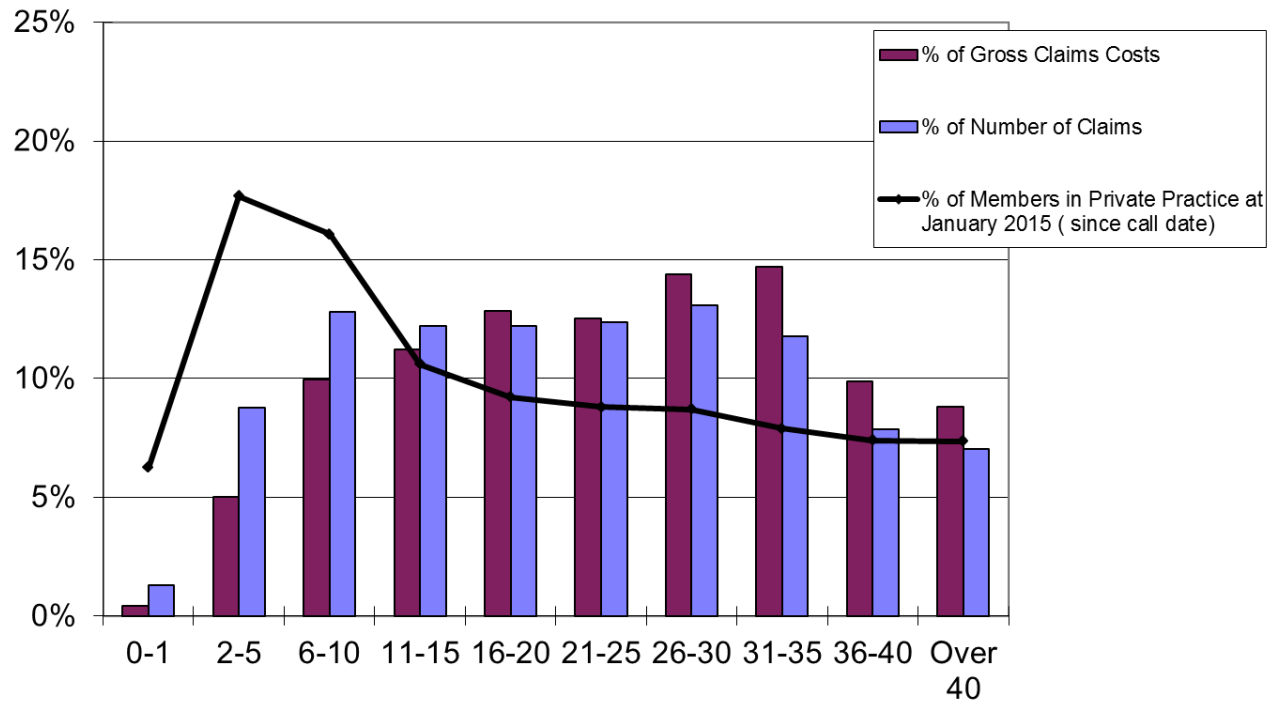
**Distribution of Claims by Firm Size**



**Appendix "B"**

**Distribution of Claims by Years since Date of Call**

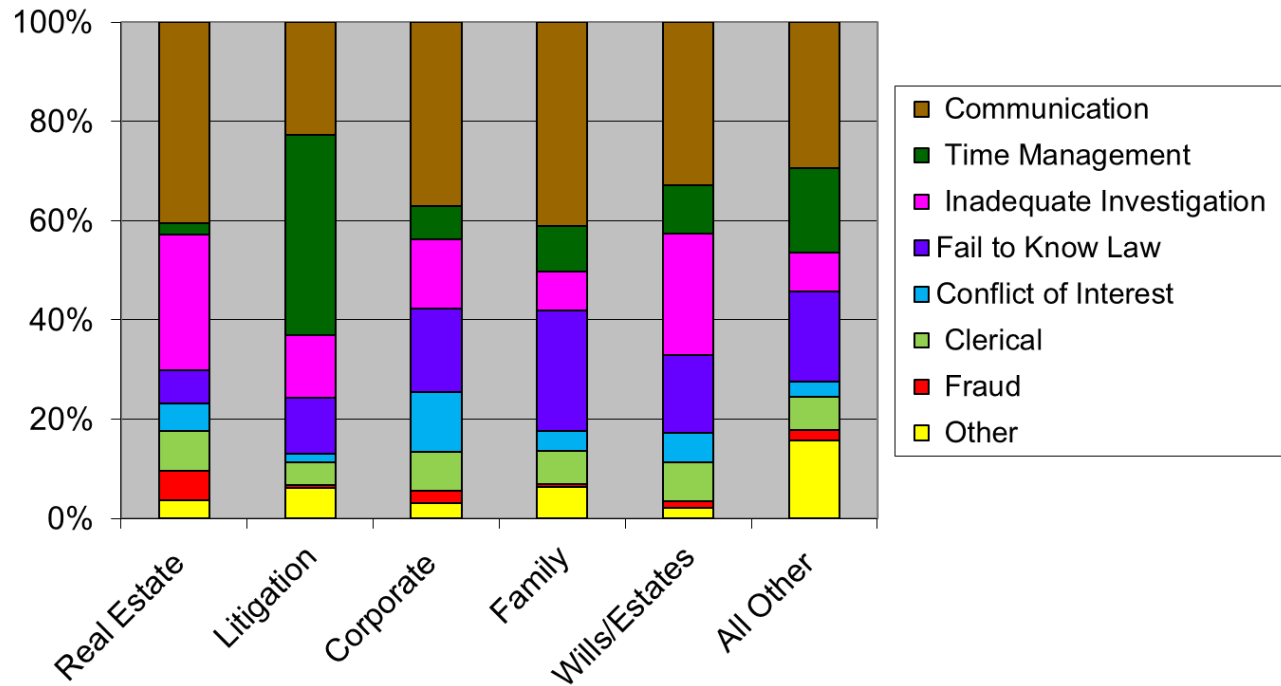
**Distribution of Claims by Years since Date of Call (2001-2015)**



**Appendix "B"**

**Distribution of Claims by Reported Claims Count and Area of Law**

**Claim Causes by Reported Claims Count and Area of Law (2001 to 2015)**



**Communications:** Communication-related errors (including poor communication, not keeping clients informed or failing to obtain client consent) are the biggest causes of claims in all areas of law (except litigation, where it is the #2 cause) and in firms of all sizes. While the most numerous claims, they are at the same time the most easily prevented. Lawyers can reduce their exposure to these types of claims by controlling client expectations, actively communicating with the client at all stages of a matter, documenting advice and instructions, and confirming in writing what work was done on a matter at each step along the way.

**Time management:** These kinds of claims including failing to ascertain a deadline, failing to calendar the deadline, and failing to react to the deadline even when it was known. These lapses often become claims when a limitation period ends up being missed or an action is administratively dismissed due to failing to move the litigation forward appropriately. There are also claims resulting from procrastination when a lawyer lets files that require work languish for extended periods of time. Time management claims are heavily concentrated in the litigation field, as it is so reliant on deadlines. They are also high in the intellectual property area. Practice management software and tickler systems can help prevent these claims, as can lawyers building in more time cushions so that they are not adversely affected by unexpected delays.

**Inadequate investigation:** Modern technology and busy practices may be behind the tendency of lawyers to give quick legal advice without taking extra time to dig deeper or ask appropriate questions on a client's matter. LAWPRO has seen a big increase in these types of claims in real estate, litigation and will/estates areas of law. High-volume real estate practice often means lawyers do not have enough time to ask the clients about their plans for the property, and as a result don't do the necessary searches or obtain the proper title insurance.

**Failure to know/apply the law:** These claims result from a lawyer not having sufficient or current knowledge of the relevant law on a matter in which he or she is working. Extensive federal and provincial legislation, as well as voluminous case law, help make this the second-most-common type of claim in family law. This category also includes failing to know or appreciate the consequences of tax law in corporate/commercial matters. Lawyers can best avoid this type of claim by sticking to the law they know best and not "dabbling" in other areas.

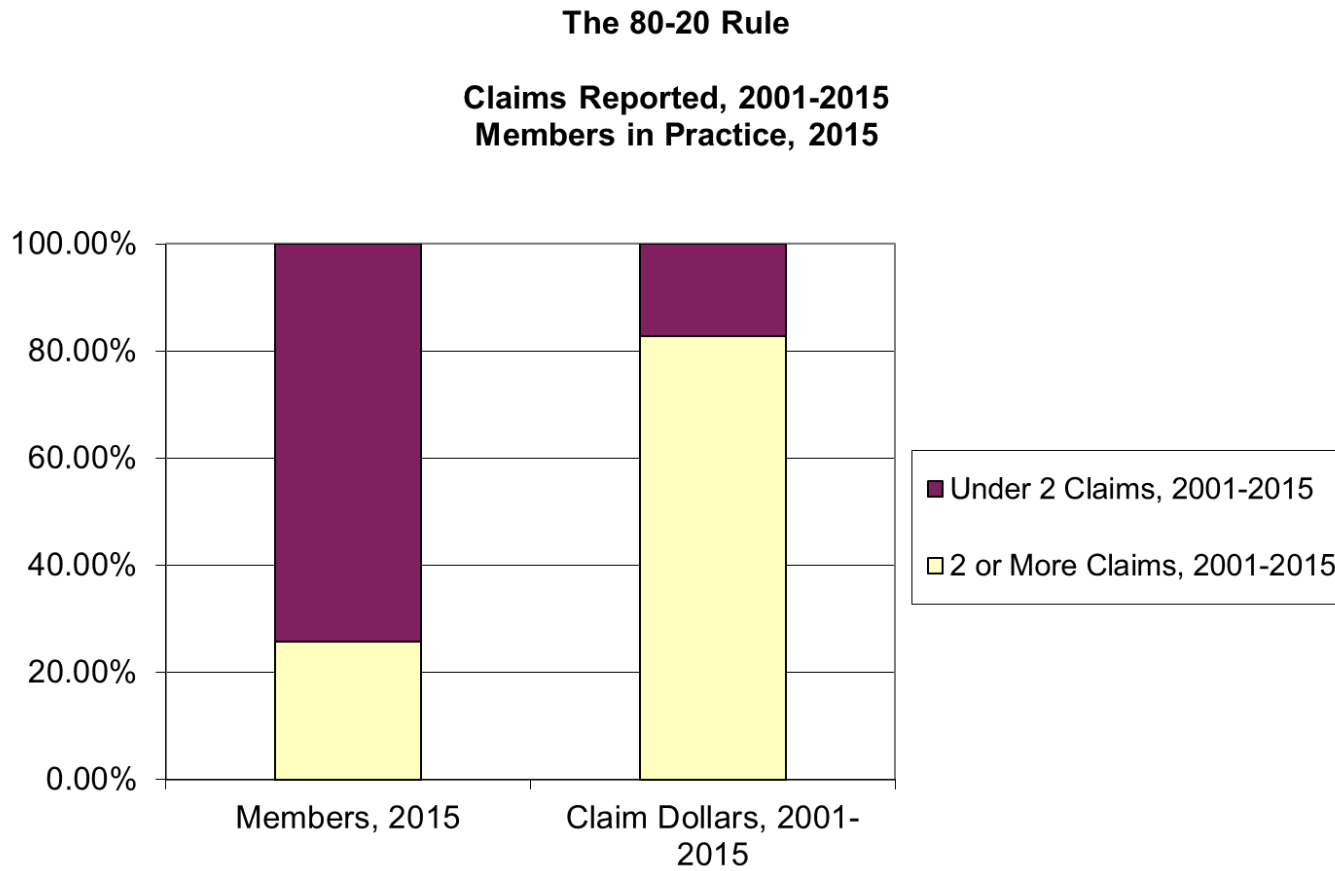
**Conflict of interest:** There are two types of conflict claims: the first arises when conflicts occur between multiple current or past clients represented by the same lawyer or firm. The second is a conflict that arises when a lawyer has a personal interest in the matter. As they regularly act for multiple clients/entities, real estate and corporate commercial lawyers experience proportionately more conflicts claims than other areas of law, while litigators have a relatively low rate of conflicts claims.

**Clerical errors:** These types of errors include things such as simple clerical mistakes, errors in mathematical calculation, work delegated to an employee or outsider that is not checked and failure to file documents. As important as delegation is to the efficient functioning of a law firm, lawyers need to take the time to review the work as they are ultimately responsible for it.

**Fraud:** Fraud continues to be a significant risk for LAWPRO, one which could cost the Program significant claims dollars if not prevented. Lawyers are reporting attempted frauds to LAWPRO on a daily basis. Fraudsters on occasion still successfully dupe lawyers and law clerks, and it is not just real estate lawyers who are targeted. Litigation, business and family law lawyers are regular targets of bad cheque scams involving debt collections, spousal support payments and business loans. Through our efforts, Ontario lawyers are clearly more aware of frauds, but ever more sophisticated frauds mean lawyers must continue to be vigilant.

**Appendix "B"**

**The 80-20 Rule**



**Appendix “C”**

**Premium Rating Examples**

**Premium Rating Examples (In Dollars)**

	<b>1995<sup>†</sup></b>	<b>2005<sup>††</sup></b>	<b>2015<sup>†††</sup></b>	<b>2017<sup>†††</sup></b>
<b>Base premium</b>	\$5,600	\$2,625	\$3,350	<b>\$2,950</b>
<b>Examples:</b>				
<b>1. Sole Practitioner Practising Real Estate Law</b> - \$10,000 defence & indemnity deductible - early lump sum payment discount - early e-filing of application	\$5,600*	\$2,228	\$3,274	<b>\$2,754</b>
<b>2. Firm Practitioner Practising Real Estate Law</b> - \$25,000 defence & indemnity deductible - \$250,000 Mandatory Innocent Party cover - early e-filing of application	\$6,000*	\$2,497	\$3,406	<b>\$2,906</b>
<b>3. New Lawyer Practising in Association</b> - first year in practice discount - \$250,000 Mandatory Innocent Party cover - \$10,000 defence & indemnity deductible - early lump sum payment discount - early e-filing of application	\$3,900*	\$1,428	\$1,599	<b>\$1,429</b>
<b>4. Criminal Lawyer (sole practitioner)</b> - Restricted Areas of Practice discount	\$5,600*	\$1,178	\$1,349	<b>\$1,179</b>

	1995 <sup>♦</sup>	2005 <sup>♦♦</sup>	2015 <sup>♦♦♦</sup>	2017 <sup>♦♦♦</sup>
- \$10,000 defence & indemnity deductible - early lump sum payment discount - early e-filing of application				
<b>5. Part-time Lawyer (in association)</b> - Part-time Practitioner discount - \$1,000,000 Optional Innocent Party cover - \$10,000 defence & indemnity deductible	\$6,000 <sup>♦</sup>	\$1,877	\$1,923	<b>\$1,753</b>
<b>6. Firm Practitioner with 1 Claim</b> - claims history levy surcharge - \$5,000 defence & indemnity deductible - \$250,000 Mandatory Innocent Party cover	\$8,500 <sup>*</sup>	\$5,375	\$6,100	<b>\$5,700</b>
<b>7. Sole Practitioner with 2 Claims</b> - claims history levy surcharge - \$5,000 defence & indemnity deductible	\$10,600 <sup>*</sup>	\$7,625	\$8,350	<b>\$7,950</b>
<b>8. Designated Agency Lawyer</b> - \$5,000 defence & indemnity deductible - early e-filing application - Risk Management Credit (x2)	\$5,600 <sup>*</sup>	\$2,500	\$3,225	<b>\$613</b>

\* Subject to a \$6,000 defence and indemnity deductible (adjusted to a \$7,500 in the case of an insured with one previous claim, or \$8,500 in the case of two previous claims).

♦ Subject to \$250,000 Innocent Party cover only, additional limits not available.

♦♦ Members are also required to pay a \$25 levy for each civil litigation or real estate transaction not otherwise excluded.

♦♦♦ Members are also required to pay a \$50 levy for each civil litigation or real estate transaction not otherwise excluded.

♦♦♦♦ \$65 per real estate transaction and \$50 per civil litigation transaction. Premium for the Real Estate Practice Coverage Option was also applied and is included in the calculated premium amounts for these years.

## Appendix “D”

### LAWPRO Vision, Mission & Values



#### Our vision

To be regarded as the preferred insurer in all markets and product lines in which we do business.

#### Our mission

To be an innovative provider of insurance products and services that enhance the viability and competitive position of the legal profession.

#### Our values

##### *Professionalism*

**Individually and as a team, we hold ourselves to the highest professional standards.**

We deliver programs and services known for quality and cost-effectiveness, and for being practical, helpful and relevant.

We demand the best of ourselves every day and in everything we do.

##### *Innovation*

**We foster a climate in which creativity, innovation and change can flourish.**

We share ideas, skills and knowledge and encourage continual learning.

We value teamwork and collaboration, and the diverse strengths and perspectives of others.

##### *Integrity*

**We act with the highest levels of integrity in all of our interactions and decisions.**

We aim to always be consistent, fair, ethical and accountable.

##### *Service*

**We strive for excellence in customer service.**

We share our knowledge, experience and expertise with our customers and with each other, so that together we can identify, prevent and solve problems.

We take the time to listen and understand, so we can respond effectively and empathetically to our customers and to each other.

We demonstrate courtesy and genuine respect for all.

##### *Leadership*

**We try to make the world a better place, and to that end lend our energy and expertise to many communities.**

## Appendix “E”

### LAWPRO Statement on Corporate Social Responsibility



## Statement on Corporate Social Responsibility

LAWPRO's vision is to be regarded as the preferred insurer in all product lines and markets in which it does business.

Implicit in this vision – and in the values that support our vision – is a commitment to being a responsible, involved and accountable citizen of the many communities in which we hold membership: the employer community, the insurance community, the legal community, and of course the larger community in which we all live.

The LAWPRO Corporate Social Responsibility Statement is informed by this spirit of community and accountability, while acknowledging that that we are governed and profoundly shaped by our unique role as the provider of the primary professional liability insurance program for all lawyers in Ontario. Our social responsibility commitment as a corporate body is focused on four principal areas:

#### **Providing a healthy and rewarding workplace**

We respect and value our employees and the vital role they play in enabling the company to fulfill its mandate. To that end we adopt policies and practices that not only comply with applicable law and fair labour practices, but also respect diversity, promote inclusion and fellowship, cultivate professional growth through education and service, and promote health, safety and wellness, in the workplace and in personal life.

#### **Respecting the environment**

We believe that individually and as a company we have a role to play as stewards of our environment and its resources. To that end we support and promote initiatives in our company that help advance the goal of a sustainable environment.

The company supports the work of its employee-led Green Committee, which aims to educate LAWPRO employees about the role individuals and organizations can play in protecting and improving the environment. LAWPRO also has spearheaded a company-wide campaign to reduce reliance on paper and related products, and facilitate use of technology in all aspects of the company's operations. The company actively encourages initiatives such as these that meet a dual mandate of being stewards of the environment and the bar's resources.

#### **Fostering the legal community**

We view a committed, healthy and diverse bar as essential to the functioning of a democracy and to the protection of individual rights in society.

We have over the years provided financial and in-kind support to organizations that promote and deliver lawyer wellness programs. As well, we make available wellness information and resources electronically at no cost.

We support and sponsor a range of legal-related charitable and non-profit causes that advance the role and reputation of lawyers in our community and, by implication, foster access to justice in Canada. We also work to support charitable initiatives which have captured the interest and imagination of the bar and their clients. We promote the enrichment of the bar through our promotion of legal education, both internally and externally, and by fostering the building of relationships within the legal community.

#### **Supporting the broader Canadian community**

We acknowledge that, as highly skilled and employed individuals, we are among the fortunate in our community. LAWPRO employees give back by selecting five registered charities annually and partner with the company to fundraise for their benefit. In addition, each LAWPRO employee may request one "charity day" per year to undertake work for the registered charity of the employee's choice.

We actively contribute to the advancement of the Canadian insurance industry, and engage in a dialogue with government in the interests of the bar and the Canadian consumer.

We promote inclusion by working to expand the range of our materials available in both official languages and by providing materials in other languages based on level of demand.

February 2012



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